

**Report on the
Ombudsman for
Children and Youth in
Foster Care**

**As Required by
S.B. 830, 84th Legislature,
Regular Session, 2015**

Office of the Ombudsman

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Executive Summary

The Texas Legislature created the Ombudsman for Children and Youth in Foster Care (FCO) during the 84th Legislature in 2015. This year's report covers the first full year of operations of the FCO since its inception, giving the first substantive look into the kinds of issues and problems experienced by youth in foster care in Texas.

Many of the complaints expressed by youth in foster care are inabilities of the system to provide the level of care promised in the *Child Protective Services (CPS) Rights of Children and Youth in Foster Care*, which enumerates specific elements of care these youth have a fundamental right to receive. Also high on the list of frequent complaints are issues with the placement the youth receives and complaints about caseworkers not returning phone calls. FCO also reports frequent instances of CPS staff not completing timely documentation of actions taken and contacts made.

This report also makes specific and broad recommendations to address these trends in complaints. These recommendations include urging CPS to address deficiencies through case specific and broad issue training of caseworkers; to take an active role in ensuring timely, consistent documentation; to work more closely with youth to proactively address issues before they become formal complaints; and that the agency consider strengthening the process for receiving, reviewing and responding to unplanned discharge requests in order to minimize placement disruption.

The report also details outreach to youth during FY 2017 and describes plans to greatly enhance outreach efforts in FY 2018 with the hiring of three legislatively created positions.

The FCO is uniquely positioned to provide a truly independent place for children and youth in foster care to go when facing an issue with their foster care experience. This report gives a glimpse into the kinds of issues youth are concerned about as well as efforts made to resolve not only their

individual complaints, but to bring these issues to light so that steps can be taken to improve the experience for all children and youth in foster care.

1. Introduction

Senate Bill (SB) 830, 84th Legislature, Regular Session, 2015, established an ombudsman for children and youth in foster care (FCO) to serve as a neutral party in assisting them with complaints regarding health and human services (HHS) programs and services. The FCO is administratively attached to the HHS Office of the Ombudsman established by Section 531.0171 of the Government Code. SB 830 was codified as Chapter 531, Subchapter Y of the Government Code, which can be accessed here:

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.531.htm#531.992>

Goals of the FCO are to:

- have a positive impact on foster youth;
- make sure youth are cared for and getting the services they need;
- work proactively with partners to fix individual and system problems; and
- advocate for youth and teach youth to advocate for themselves.

2. Background

FCO operations began on May 2, 2016. HHS staff worked with the Department of Family and Protective Services (DFPS) and external stakeholders to outline FCO administrative rules and standard operating procedures. Proposed rules were published in the *Texas Register* on August 26, 2016. No comments were received, and the rules were finalized on January 13, 2017. Additionally, the Office of the Ombudsman entered into a memorandum of understanding with DFPS Statewide Intake to facilitate implementation of SB 830's requirements that FCO assist youth in reporting allegations of abuse or neglect. A website with contact and general information about FCO can be accessed here: hhs.texas.gov/foster-care-help.

One requirement of the legislation is for the Health and Human Services Commission (HHSC) and DFPS to post an annual report on their websites that includes the following:

- a glossary of terms;
- a description of FCO's activities;
- a description of trends in complaints, recommendations to address them, and an evaluation of the feasibility of those recommendations;
- a list of HHS agency changes made in response to substantiated complaints;
- a description of methods used to promote FCO awareness and a plan for the next year; and
- any feedback from the public on the previous annual report.

3. Glossary of Terms

The following terms are used in this report, and in the daily operations of FCO:

- Child Care Licensing Automated Support System (CLASS): the HHS information system used by Child Care Licensing staff for record management.
- Contact: an attempt by a youth to inquire or complain about HHS programs or services.
- Complaint: a contact regarding any expression of dissatisfaction by a youth.
- DFPS Office of Consumer Affairs (OCA): a neutral party that reviews complaints regarding case-specific activities of DFPS program areas to determine if policies and procedures were followed in compliance with DFPS administrative rules at Title 40, Part 19, Chapter 702, Subchapter I (relating to Office of Consumer Affairs Services).
- HHS Enterprise Administrative Report and Tracking System (HEART): a web-based system that tracks all inquiries and complaints FCO receives.
- Information Management Protecting Adults and Children in Texas (IMPACT): the DFPS system used by Child Protective Services staff for case management, including documentation of abuse and neglect investigations.
- Inquiry: a contact regarding a request by a youth for information about HHS programs or services.
- Resolution: the point at which a determination can be made, and further action is unnecessary.
- Substantiated: a complaint determination where research clearly indicates agency policy was violated or agency expectations were not met.
- Unable to Substantiate: a complaint determination where research does not clearly indicate if agency policy was violated or agency expectations were met.
- Unsubstantiated: a complaint determination where research clearly indicates agency policy was not violated or agency expectations were met.
- Youth: children and youth under the age of 18 in the conservatorship of DFPS.

4. Overview of FCO Review Process

Youth may contact FCO by phone, fax, mail, or online submission. FCO staff follow up with the youth within one business day of the date of contact, and then at least every five business days thereafter, until the case is closed. FCO staff maintain a record of all inquiries and complaints in the HEART system.



Each case is reviewed to determine if DFPS policy was followed. FCO staff review all available information about a case through inquiry into HHS systems, including CLASS and IMPACT. Applicable policies include federal and state law, administrative rules, and program handbooks, including HR policy.



If, during their research, FCO staff discover a violation of HHS or DFPS policy that was not outlined in the original submission from the youth, an additional complaint is entered in the existing HEART case.



When there is insufficient information through available systems to determine a resolution on a complaint, FCO staff request a response from appropriate HHS or DFPS program staff, if the youth has authorized discussion of their case.



Upon completion of a case, a written response to program staff include recommended corrective actions, when applicable. A written response is provided to the youth, if requested, including a description of the steps taken to investigate the complaint and a description of what FCO found as a result of their investigation. If a complaint is substantiated, the youth is also given a description of the actions taken by the HHS agency or DFPS in response to that finding. If a complaint is not substantiated, the youth is given a description of additional steps they can take to have someone review their concern (e.g., speak to their court-appointed advocate or to the judge assigned to their case).

5. Contact and Complaint Trends and Patterns

In FY 2017, FCO received 652 contacts from youth and others. Of the 652 contacts, 172 individual youth contacted FCO by phone, online submission, in person, email, letter, fax, and text message.

The 172 youth accounted for 346 inquiries and complaints to FCO. Many youth made multiple complaints, or FCO staff may have added a complaint they discovered during their review of a youth's complaint.

The ages of the youth who contacted the FCO ranged from 10 years old to 17 years old. Most youth were 15 years old or older at the time of contact.

DFPS provides all children and youth in foster care the Child Protective Services (CPS) Rights of Children and Youth in Foster Care. Per CPS policy, these rights must be reviewed with a child or youth and the caregiver no later than 72 hours from the date the child comes into foster care, and when any subsequent placements changes occur. The CPS Rights document can be viewed here:

www.dfps.state.tx.us/Adoption_and_Foster_Care/About_Foster_Care/rights.asp.

Inquiry and Complaint data

The table below summarizes the top contact reasons with the associated section of the CPS handbook for all inquiries and complaints.

Table 1: Most Frequent Contact Reasons: All Inquiries and Complaints

Contact Reason	CPS Handbook Section	Count
Rights of Children and Youth in Foster Care	6420	104
Caseworker not responding to phone calls	6143.11	39
Placement Issue	4000	37

For FY 2017, the FCO resolved 334 complaints. Of those, 161 were Substantiated, 99 were Unsubstantiated, and 74 were coded Unable to Substantiate. Note: the remaining 12 complaints were still open at the close of the fiscal year.

The table below summarizes the top contact reasons for Substantiated complaints with the associated section of the CPS handbook. For a graph of all substantiated complaint reasons, see Appendix A.

Table 2: Most Frequent Contact Reasons: Substantiated Complaints

Contact Reason	CPS Handbook Section	Count
Not all facts documented in IMPACT	6133.24	37
Caseworker not responding to phone calls	6143.11	28
Rights of Children and Youth in Foster Care	6420	25

FCO also reviews investigation cases in IMPACT and/or CLASS to ensure CPS adheres to rights and policies. If FCO determines there may be a discrepancy in the case, FCO requests clarification from DFPS staff. Once clarification is provided, and FCO determines there has been a violation, FCO will coordinate with DFPS staff to resolve the issue. If the complaint is found to be Substantiated, FCO will make recommendations to ensure the policy is followed in the future.

Regional complaint distribution

Nearly two-thirds of the 161 complaints were received from Regions 03, 04, and 06 (100 of the 161 substantiated complaints.)

Region 03 had the highest number of substantiated complaints (50), concentrated in Dallas County. For a graph of regional complaint distribution, see Appendix B.

Almost all complaints received by the FCO were related to DFPS policies and procedures and were addressed through the FCO process. However, sixteen cases were related to allegations of abuse and neglect or minimum standard violations. Those cases were reported to DFPS SWI for further investigation. Because of the statute’s specific direction on the confidentiality of FCO communication with youth,

FCO staff document consent before sharing information with DFPS staff, and explain the sharing of information is strictly for the purpose of resolving the youth's complaint. Of the sixteen reports to SWI, all complainants but three authorized the FCO to share information with DFPS staff for resolution.

6. Recommendations

Recommendations to address most frequent complaints

The top Substantiated complaints listed in the Table 2 above resulted in the following recommendations for DFPS:

- Staff should complete refresher training on entering concise, complete, and timely documentation in the correct stage of service.
- Management staff should ensure caseworker visits are completed timely.
- Management staff should ensure all caseworkers receive a refresher training in child rights. The training should highlight caseworker's responsibility for responding to complaints related to child rights, and reporting to SWI, when appropriate.

DFPS responded to each substantiated complaint with a summary of actions taken such as caseworker conferencing and/or policy review with the caseworker. However, FCO also made broader recommendations to address repeated or general findings. For instance, FCO recommended that DFPS retrain staff who were in violation of CPS policies and incorporate some of the policy violations into new caseworker training. FCO also recommended that DFPS add to the child rights document the youth's right to be notified of the outcome of any investigations which they are involved in as the victim or the reporter, with appropriate support from a therapist when necessary. FCO has not received information regarding any scheduled trainings or policy review sessions across regions in response to these broader recommendations.

It should be noted the most frequent substantiated contact reason of "Not all facts documented in IMPACT" (37) resulted from FCO's review of the case documentation in the DFPS IMPACT system during case investigation. It was not a part of the complaint submitted by the youth, but was a result of a policy violation discovered during the review of a case.

While researching and investigating inquiries and complaints presented by youth, FCO found several trends and patterns that directly impact the youth's quality of care, and recommends action be taken to address these issues.

Proactive action to address complaints

Caseworkers generally refer the youth to the FCO toll free line when the youth has voiced a concern about their rights or need help with something. This is absolutely appropriate, but the caseworker should also be making a report when a minimum standards violation is reported to them. The caseworker could also make contact with the provider to help resolve the issue the youth is complaining about. If the caseworker does not report the issue and the youth does not contact the FCO, it may go unaddressed. When a youth reports an issue to their caseworker, it should be addressed immediately by the worker to ensure the youth are receiving the care and services they should, and to help resolve any issues identified by the youth or caregiver to help prevent a placement disruption.

Consistent, timely documentation

The FCO investigates inquiries and complaints by reviewing the youth's case information in the DFPS IMPACT data system. One of the primary uses of this system is to document all contacts between the caseworker and the youth. At a glance, reviewers should be able to see how often the caseworker sees the youth or speaks with the youth, if there are any identified problems, what is being done to support and keep the youth on track, and what is being done to prevent possible placement disruptions. Many times the documentation is minimal or no documentation is entered in IMPACT at all. This is an obstacle to being able to assess if the caseworker is meeting CPS policy and handbook requirements for regular monthly or weekly contact with the youth, depending on the type of placement. Many times, FCO findings are based on lack of documentation in the DFPS IMPACT data system. Entering contact documentation timely in the correct stages of service would be fewer Substantiated complaints added to youth complaints. Another important component of documenting timely is documentation entered by the Single Source Continuum Contractors (SSCC). These programs are responsible for providing care and case management services to foster youth, and documenting services and interventions provided to the youth. CPS is responsible for collaborating with these programs to ensure documentation is entered timely in the CPS system, and overseeing SSCC activity. Any lack of consistent documentation by the SSCC staff would compromise FCO's ability to accurately verify circumstances surrounding complaints made by youth, which could further complicate identifying and resolving legitimate areas of concern.

Unplanned discharge notices

DFPS requires written notification when a program decides to submit a discharge notice for a youth to be removed from their placement. Prior to the discharge, the placement--according to residential child care contract language--is supposed to implement a plan to address any issues to prevent the placement disruption. Often a program makes an instant decision to discharge a youth from their care. DFPS's general response to this decision is "we cannot force a provider to keep a child once they have submitted a discharge notice." CPS policy states that staff must work with the provider to ensure issues and problems are resolved prior to accepting a discharge notice. CPS generally responds after the notice is submitted, at which point the discharge is already submitted and often accepted without any follow up. Unplanned discharges can impact a youth in several ways:

- loss of stability gained in the placement;
- loss of trust and attachment established with the caregiver;
- need to move to a new school – youth lag in their education each time they move to a new school; and
- move farther from family when multiple placements happen.

For these reasons, it is imperative that CPS train and develop current and new caseworkers to respond immediately to issues identified in the placement and develop caseworkers to advocate for youth and support the caregivers so there will be fewer placement disruptions and better long-term stability for youth. FCO further recommends CPS put a clear process in place for receiving, reviewing, and responding to unplanned discharge requests in a timely manner, and document any efforts or steps taken to work with the provider to prevent the placement disruption.

CASE EXAMPLE

A 17-year-old foster youth was placed in a foster home as a temporary placement for two weeks. The youth had been in nine placements in two years, and had struggled with behaviors which caused eight of the placements to break down. This made it challenging to place the youth. The last foster home where the youth was placed was identified as a home that could handle difficult children, per information provided by the Child Placing Agency (CPA). The placement broke down almost immediately. When the youth asked to leave the placement, CPS denied the request. When the foster parent asked that the youth be moved, the CPA submitted

in a 30-day notice to CPS, which was not effective considering this would allow the youth to stay in the home for 30 days, and he would have turned 18 two weeks prior to the 30th day of the notice.

The youth contacted FCO and asked for help with getting a different placement, among other things. FCO contacted CPS and was informed the youth was fine in the placement and would not be moved. FCO contacted the CPA who indicated they did not know what to do with the youth. They said they found one other placement, but the youth refused to go because it was a Residential Treatment Center (RTC). The CPA said they were told by CPS to call law enforcement if the youth did not comply with the rules in the foster home, but the CPA said they were told by law enforcement that they were not going to do CPS's job. The foster parent and CPA had already put in a 30-day notice for the youth to be removed from the home, but were now requesting that he be removed immediately.

A few days later, the foster parents filed a complaint with the FCO indicating they had vacation plans and did not know what to do with the youth because CPS said they would not pick the youth up. The foster parent also indicated they did not feel safe in their home with the youth and they wanted to file a complaint against CPS. FCO contacted CPS state office staff and was informed the youth would not be picked up, that the office was not a placement. CPS indicated it was up to the CPA to work out any issues with the youth in the placement. FCO suggested to CPS that the situation could become dangerous very quickly and safety was now a concern. CPS responded stating it is up to the CPA to sort it out. When it was time for the foster parents to leave for vacation, the CPA picked the youth up to take him to the RTC for respite, but he refused to go. The youth ended up sleeping in the CPS office for one week at which point he turned 18 and aged out of foster care.

This case should have been handled differently. Per policy, CPS must ensure any issues or concerns identified with a placement are addressed in a timely manner, and should include appropriate action to help problem solve and offer support to the caretaker to help prevent the placement breakdown. While the CPA is contracted to secure and manage the placement, CPS is also required to help manage the placement and provide support when issues arise. In this case, this did not happen and, as a result, several policies were violated.

Substantiated Policy violations:

- ***•4122.5 - Resolving Issues*** - *When it is not possible to immediately resolve problems with the placement, the caseworker must contact his or her supervisor to determine the appropriate course of action. The caseworker must also consider whether additional action is needed because of concerns with the placement.*

- **•6414.73 - Following Up on Identified Needs** - *The caseworker must follow through with meeting any identified needs of the child or providing any support services needed for the caregiver.*
 - **•4152.1 - Plans for Children When Placement Is Unavailable** - *If a child in DFPS conservatorship does not have a placement, the child must, as a last resort: stay in a hotel or other location supervised by CPS staff; or remain in a CPS office overnight.*
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7. Promotional and Outreach Activities

HHS and DFPS undertook several promotional efforts to ensure foster youth were aware of FCO's contact information and its role when operations began in May 2016 and throughout FY 2017. For example, HHSC created an FCO website and announced FCO through social media posts on Facebook and Twitter. DFPS staff ensured links to FCO information were available on pages within their website geared to foster youth and anyone with concerns about the agency.

At the start of the program in 2016, DFPS CPS caseworkers were informed about FCO and notified that The Rights of Children and Youth in Foster Care document was updated to include the FCO contact information. The document is required to be reviewed with a foster youth and their caregiver no later than 72 hours of their placement and any subsequent placement changes. Additionally, DFPS required all residential child-care facilities in which foster youth are placed to display a poster with the FCO's contact information. A copy of the poster can be accessed here:

<https://hhs.texas.gov/sites/default/files//documents/about-hhs/your-rights/office-ombudsman/ombudsman-fostercarefacilityflyer.pdf>

Several stakeholder groups also posted FCO contact information on their websites and announced the start of FCO operations through their social media outlets. For example, the Supreme Court of Texas Children's Commission Jurists in Residence distributed a notice to judges who hear child welfare cases across the state with FCO information. A copy of that notice can be accessed here:

<http://texaschildrenscommission.gov/media/1362/ombudsman-for-children-and-youth-in-foster-care.pdf>

In FY 2017, FCO attended nine Preparation for Adult Living (PAL) meetings and one Youth Leadership Council across the state. A general polling of youth who participated in the meetings revealed fewer than half of the youth were aware that the FCO existed prior to the meetings. Although they said they had seen the poster displayed at their placement, they were not informed of the purpose of the poster by their caseworker or their placement.

HHS produced and procured items with FCO's contact information to distribute to youth in foster care during these PAL meetings and other foster care youth events. These items include: an FCO brochure and bookmark, backpacks, tumblers, pens,

lanyards, and t-shirts. These promotional items were distributed by FCO staff attending these conferences. FCO spoke face to face with 421 youth.

Table 3: PAL Seminar Attendance

Date	Event	Location	Number of Youth at Event
February 11th	PAL Aging Out Seminar	Waxahachie	25
March 25th	PAL Aging Out Seminar	Dallas	25
April 1st	PAL Aging Out Seminar	San Angelo	4
April 20th	PAL College Conference	Conroe	50
June 9th	PAL Aging Out Seminar	Killeen	34
June 26-27th	PAL College Conference	Denton	115
July 7th	DFPS Youth Leadership Council	Stafford	23
July 12th	PAL Aging Out Seminar	El Paso	48
July 27th	PAL College Conference	Edinburg	72
August 3rd	PAL Aging Our Seminar	Tyler	25

Comments on the FY 2016 Report

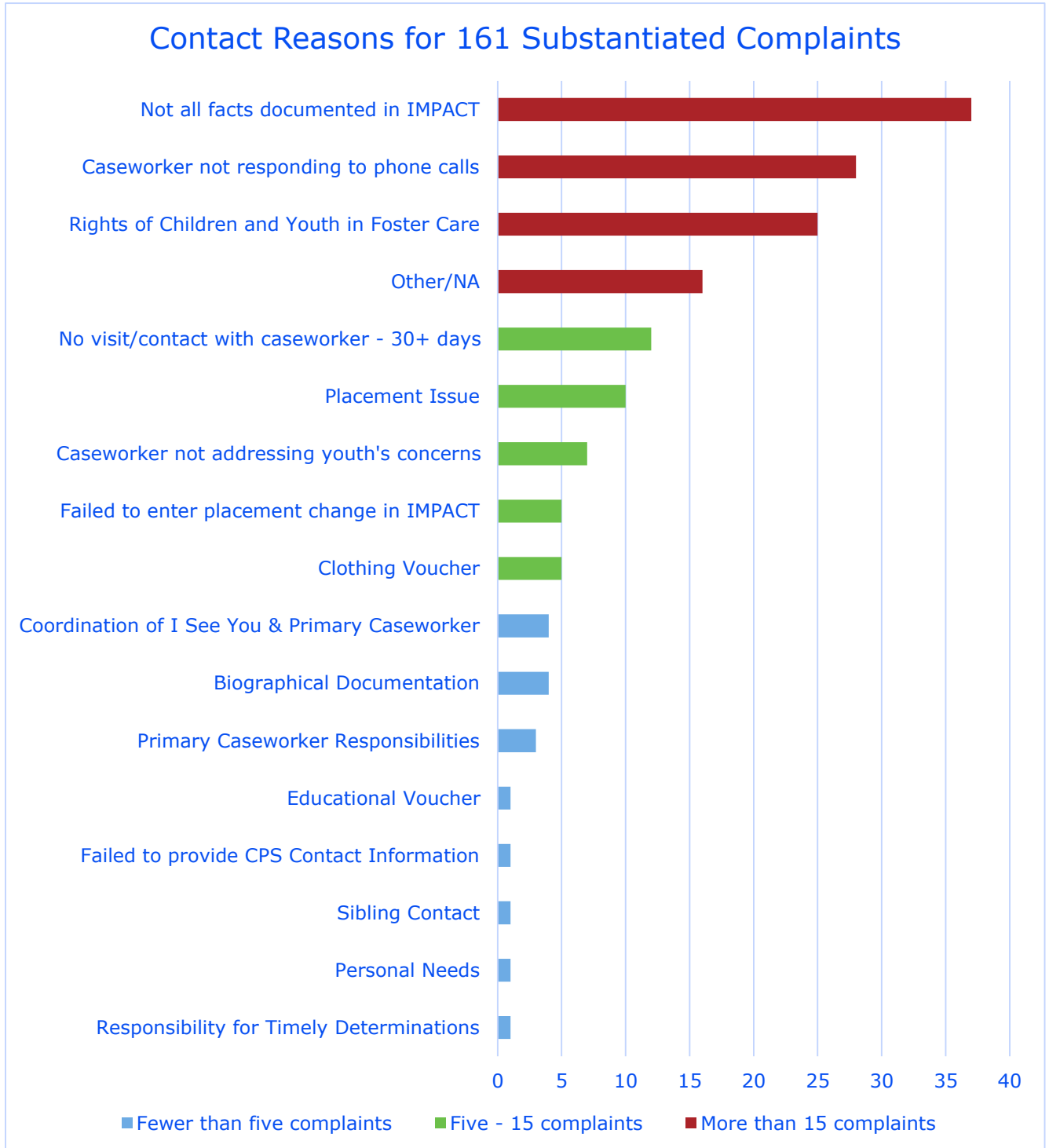
HHS received no comments on the FY 2016 FCO report, which can be accessed here:

<https://hhs.texas.gov/reports/2016/02/senate-bill-830-report-ombudsman-children-and-youth-foster-care>.

Future plans for FCO

- At any given time there are over sixteen thousand youth in the foster care system. The most vulnerable of the youth in care are those younger than 12 years old. Currently, FCO does not have face to face interaction with this age group. Moving forward, FCO will increase efforts to gain access to these youth as well. The 85th Legislature provided three additional full time positions for the FCO program. These additional staff will greatly increase FCO's ability to reach more children and youth in foster care with ombudsman services.
- HHS will continue to work with external stakeholders who work with foster youth to ensure they have FCO's contact information and an understanding of its services, and will enlist their assistance in outreach efforts.
- As funding permits, FCO staff will continue to attend foster youth events across the state.
- FCO will continue to educate the general public about FCO services, specifically those who work with youth in foster care.

Appendix A.



Appendix B.

