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Office of Ombudsperson for Families

Annual Report To The Governor

1998

Submitted by the Office of Ombudsperson for Families, Pursuant to Minn. Stat. 257.0766, Subd. 2.

Table of Contents

History Of Ombudspersons For Families Office.....	3
Problem Statement.....	4
Office of Ombudsperson For Asian-Pacific Families.....	6
Introduction	6
Who Is Served	7
Office Functions	8
Appendix A—Enabling Legislation for Office of Ombudspersons For Families.....	12

HISTORY OF THE OFFICE OF OMBUDSPERSONS FOR FAMILIES

During the 1990 Minnesota legislative session, legislators introduced legislation that had two intents: 1) stem the growth in the number of out of home placements of children and 2) reduce the length of time these same children resided in short term foster care, long term foster care and residential treatment.

Since their inception, the Indian Affairs Council, The Spanish-Speaking Affairs Council, the Council on Black Minnesotans and the Council on Asian-Pacific Minnesotans had been fielding complaints and seeking resolution of problems directly related to the issue of out of home placement of children of color. This new legislation did not seem to address the types of complaints heard by the different councils. After a series of meetings with the legislation's sponsor, the minority community was able to improve the legislation.

During the meetings about the legislation, meeting participants acknowledged the need for an extensive and methodical review of the issues surrounding children of color in out of home placements. A task force was formed and they began meeting in 1990. The task force had forty people and met for one and a half (1 ½) years. The task force identified a variety of needs including the need for an advocate for families of color who faced child protection complaints and/or the removal of a child from the home. As the recommendation evolved, the task force chose the effective advocate model for these problems.

The task force drafted legislation to create the Office of Ombudsman for Families. Quietly and methodically, the task force met with legislators and explained the legislation. The 1991 Legislature passed the initial enabling legislation and the 1992 Legislature passed follow-up legislation. (See Appendix A for the enabling legislation) Funding limitations prevented the Ombudspersons from having their offices together. When the first group of Ombudspersons was hired in 1991, they had offices with their respective Councils. The Office of Ombudsman for Families would have an overall advisory council comprised of representatives from each community. These representatives would also serve as a community advisory council for each Ombudsman.

This report shows the progress and the work yet to be done in the areas of child protection, out of home placements and areas unique to each community of color.

PROBLEM STATEMENT

The primary duty of the Ombudspersons is "monitoring agency compliance with all laws governing child protection and placement, as they impact on children of color" Other duties in the legislation included: a) cultural diversity training for courts, policy makers, and service providers, b) ensure appropriate representatives participate in placement decisions, c) recruit guardian ad litem from communities of color and d) provide training programs for bilingual workers.

To aid in the monitoring of child protection and placement of children of color, a 1994 report by the Department of Human Services provided comprehensive information about the extent and nature of out of home placements of Minnesota's children including its children of color. The following tables are excerpted from that report.

Table 1
Race/Ethnicity of Children in Care by Year

Race/Ethnicity	1990	1992	1994	1996
White	10,196	11,337	11,658	10,701
African American	2,464	3,459	4,007	3,492
American Indian	1,829	2,130	2,176	1,995
Hispanic	307	412	581	644
Asian/Pacific Islander	363	304	292	285
Total	15,325	18,096	18,714	17,117

Bulletin #98-68-8, "Report on Out-Of-Home Care in 1996 By Race and Heritage", Minnesota Department of Human Services, November 25, 1998.

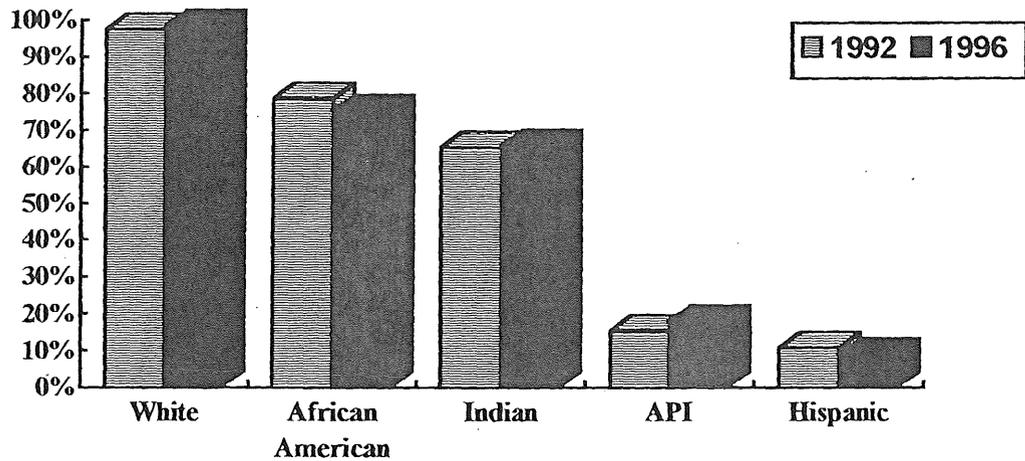
Table 2
Length of Time In Care By Child's Race/Ethnicity For Children Leaving Out Of Home Care In 1996

Time In Care	African American	Asian Pacific Islander	American Indian	Hispanic	White
Less Than 1 Month	23.8%	23.5%	21.9%	26.3%	27.2%
12 Months or Longer	43.6%	31.5%	41.0%	29.5%	33.3%

Bulletin #98-68-8, "Report on Out-Of-Home Care in 1996 By Race and Heritage", Minnesota Department of Human Services, November 25, 1998.

Table 3

Percentage of Times The Race/Ethnicity of Foster Parent(s) Matched The Race/Ethnicity of Children Placed In Family Foster Homes In 1992



"Caring For Children In Out of Home Placement: A Report to the 1994 Legislature on County Compliance with Foster Care and Adoption Policies", Family and Children's Services Division, Department of Human Services, 1994. and "Children In Out Of Home Care: A 1996 Report By Race and Heritage", Minnesota Department of Human Services, November 25, 1998

OFFICE OF OMBUDSPERSON FOR ASIAN-PACIFIC FAMILIES

Bauz L. Nengchu

INTRODUCTION

The current Ombudsperson For Asian-Pacific Families (Ombudsperson) assumed the position during 1998. As part of her orientation process, she met with Asian-Pacific community leaders and community based organizations and asked for their opinions on the best use of the Ombudsperson's time. In their opinion, the Office of Ombudsperson for Asian-Pacific Families was not a visible resource in the community and therefore the Ombudsperson should make community outreach and education a top priority of the office.

The office's Advisory Board gives advice and guidance on work priorities and liaisons with the Asian-Pacific communities. The Advisory Board agreed with the communities and encouraged the Ombudsperson to increase the visibility and outreach of the office. The Board has five members:

Linda Davis, Chair
Special Education
Teacher, St. Paul

Gail Chang Bohr,
Executive Director
Children's Law Center
of Minnesota

Bauz Nengchu
Ombudsperson for
Asian Pacific Families

Miriam Lo, Ph.D.
Professor, Mankato
State University

Pakou Ly
Program Manager
Minnesota Department
of Human Services

David Lor, Court
Interpreter

PURPOSE OF THE OFFICE

The Ombudsperson for Asian-Pacific Families bridges the communication gap between families and social service providers. The Ombudsperson interprets family's hopes, fears and concerns for social service providers. These fears and concerns arise during official actions such as removing a child from the home or child protection proceedings. The Ombudsperson strives to alleviate a family's fears and convey the reality of those fears to social service staff of the public and private social service agencies. This role draws the Ombudsperson into an array of family issues beyond just out of home placements and child protection.

Minnesota has gaps in the access to and availability of culturally effective social service resources for Asian-Pacific families. These gaps means the Office of Ombudsperson serves a general information and referral function for Asian Pacific families seeking help. Asian-Pacific families believe social service providers will listen to the Ombudsperson who can then explain the family's problems in terms the social service providers will understand. Families have established a process of conveying information to the Ombudsperson who interprets the information for the social service providers. This process seems to have improved both the responsiveness of social service agencies and family's satisfaction with the outcome of the agency's services.

The Ombudsperson simultaneously assists and educates families. As individual families progressively gain the expertise and self-confidence to advocate for themselves in the social service system, the role of the Ombudsperson diminishes. However, the removal of a child from the home or accusations of child abuse are so traumatic that even the most skilled and self confident family need Ombudsperson support during those crisis periods.

WHO IS SERVED

Asian-Pacific families represent the newest community of color in both the United States and Minnesota. Problems arise from two sources: 1) Asian-Pacific families misunderstand or don't know the norms of American and Minnesota culture and the laws to enforce the norms of those cultures and 2) American and Minnesota citizens misunderstand or don't know the language, culture and resettlement problems of the Asian Pacific families.

A multiplicity of cultures, languages and geographic homelands describes the Asian-Pacific population in Minnesota. Representative communities include:

Afganistan	Guam	Maldives Islands	Papua New Guinea
Australia	Hawai	Mariana Islander	Philippines
Bangladesh	Hmong	Marshall Islands	Samoa
Bhutan	Hong Kong	Malaysia	Singapore
Burmese	India	Mongolia	Sri Lanka
Brunei	Indonesia	Myanmar	Tahiti
Cambodia	Japan	Nepal	Taiwan, ROC
China	Kampuchea	New Zealand	Thailand
Fiji	Korea	Okinawa	Tonga
Filipino	Laos	Pakistan	Vanuatu
Gilbert Islands	Macau	Palau	Vietnam

The Ombudsperson concentrates her time to work with the communities which represent the majority of Asian-Pacific families in Minnesota—Cambodian, Hmong, Lao and Vietnamese families, however, the Ombudsperson responds equally to service requests from members of other Asian-Pacific communities.

Aiding in this work is the Ombudsperson's language fluency in Hmong, Lao, Thai, English. When necessary, the Ombudsperson contracts with interpreters for other languages.

OFFICE FUNCTIONS

Policy Development

The Ombudsperson acts as a resource rather than an actual implementer. They ensure compliance by state, county and private social service agencies with all child welfare laws impacting children and families.

During 1998, the Ombudsperson participated on the Maltreatment of Minors Task Force and served on the Maltreatment Definitions Sub-Committee. The purpose of the sub-committee was to gather information and make recommendations to the whole committee for approval and submission of the Legislature, regarding child abuse/neglect prevention and intervention services offered to children and families. The Ombudsperson worked with the sub-committee to blend the legal definitions of maltreatment with the Asian-Pacific cultural perspectives about what constitutes discipline and abuse by an Asian-Pacific parent.

The Ombudsperson met with the Department of Human Services staff about strengthening the statutory and administrative rule language about culturally and linguistically appropriate social services.

The Ombudsperson participated (and will continue to participate) on an Asian-Pacific Policy Task Force which formed in response to September, 1998 tragedies in the Hmong community (the murder of a young girl, the murder of children by their mother and the disappearance of another mother). As part of that task force, she served on the committee's subcommittee on Violence Prevention and Education.

Over the years, it has become evident that the Ombudsperson's policy role is best served by their participation on task forces, committees, forums, conferences and planning groups. These groups provide the best opportunity for shaping future public policy as it affects Asian-Pacific families, i.e., Maltreatment definitions, culturally appropriate and effective social services. Access to policymakers via committee participation efficiently uses the Ombudsperson's time to influence the maximum number of individuals with the fixed amount of time with one Ombudsperson.

This function accounted for approximately 10% of work time during 1998.

Advocacy/Education

The Ombudsperson for Asian-Pacific Families focuses on educating the Asian-Pacific community about American and Minnesota laws concerning child abuse and family preservation. At meetings around the state, the Ombudsperson presents information about the Office's functions and resources. In 1998, public and private social service providers, Asian-Pacific groups and Asian-Pacific individuals heard presentations.

In response to the identified need, the Ombudsperson revised the office's brochure and translated it into Lao, Cambodian, Hmong and Vietnamese. An area showing particular promise for outreach and education is the parent support groups organized and operated by community based organizations, i.e., Hmong American Partnership, Lao Family Community, Early Childhood Family Education Center, etc.

The Ombudsperson strives to bridge the misunderstanding between the cultures, however, the Ombudsperson has to first explain the role of the Office of Ombudsperson. American and Asian Pacific families often don't understand the concept and role of an "Ombudsperson". The Ombudsperson spends considerable time explaining the Office's functions, legal authority, responsibilities and limitations to both families and social service agencies. Information about the Minnesota legal system, child protection and out of home placements generate the most requests. The Ombudsperson presents information via face-to-face contacts at meetings, seminars, phone calls and scheduled presentations. Education heightens an awareness of the differences that cause conflicts between families and social service agencies and provides a foundation for resolving those differences.

Advocacy and education constituted about 80% of work time in 1998

Case Example:

School personnel filed a child protection complaint involving a handicapped child. The school staff were concerned about the child's hygiene. Parents were frustrated due to language barriers and cultural differences. After the Ombudsperson's investigation, two recommendations were made to school staff: 1) to provide an interpreter to the parents due to their limited English proficiency and 2) to provide cultural diversity training to school staff. As for the parents, it was recommended that they need a new personal care attendant for the child and to work on improving their parenting skills.

Case Management

The Ombudsperson assists whenever necessary in establishing and administering a system for reviewing and resolving complaints to ensure the safety, well being and best interest of Asian-Pacific children.

During the first quarter of her work, the Ombudsperson learned the office's functions and introduced herself by letter and personal visits to Southeast Asian service providers. She traveled to Greater Minnesota to meet providers and participated on the Maltreatment of Minors Task Force, specifically the Maltreatment Definitions Subcommittee. As part of her subcommittee responsibilities, she helped facilitate focus groups with affected cultural groups. The office had an informational booth at Hmong Resource Fair at Lao Family Community Inc. and Head Start Program at Arlington High School in St. Paul.

The Ombudsperson attended the United States Ombudsman Association Conference in Detroit, Michigan, to enhance her skills as an Ombudsperson. The conference was helpful in a number of ways: 1) she made professional contacts with many Ombudspersons from around the country, 2) she gained a better understanding of the investigative process and ethical considerations and 3) she learned additional conflict resolution techniques.

As part of her work with families, the Ombudsperson continually reminds families to call before the problem reaches a crisis point. When problems reach a certain stage, the Ombudsperson can only offer recommendations and suggestions. Towards the goal of balancing the different cultural perspectives on the roles of family, children and parents, the Ombudsperson regularly meets with law enforcement, judges, and child protection staff to resolve this perplexing problem.

Case management constituted approximately 5% of work time during 1998.

Case Example:

A child protection worker referred a case requesting a fair recommendation in which the foster parents opposed the reunification of the foster children with their biological parent. After the investigation was completed, the Ombudsperson found out there had been some on-going conflicts between the two parties. A meeting was initiated by the Ombudsperson and some recommendations were made to improve their relationship.

Monitoring Out of Home Placements

One of the Ombudsperson's duties is to monitor agency compliance with all laws governing child protection and placement. Of particular concern to the Office of Ombudsperson is number of Asian Pacific children in out of home placements, their length of stay in out of home placements, the number of placements per child and children's placement in non-Asian Pacific foster homes. Removing Asian Pacific children from their homes and placing them with non-Asian Pacific families deprives those children of their cultural connections and the influence of their families and community. Although the number of placements is not as frequent as other communities of color, the length of the placement (32% longer than 12 months) is a concern.

Monitoring out-of-home placements constituted approximately 5% of work time during 1998.

RECOMMENDATIONS FOR 1999

1. Continue to increase promotion of the office. Distribute informational brochures to community based organizations in the Twin Cities and Greater Minnesota.
2. Review policies and procedures to govern the office, i.e., intake manual of policies and procedures for complaints analysis, complaint forms, intake forms.
3. Educate Asian-Pacific families and service providers about child protection laws and family rights to file complaints with the Ombudsperson's office. For example, explain what constitutes an abuse, why children are removed from the home, what is a case plan, what are parents rights before and after a child is removed from the home.
4. Work more with local courts to monitor court activities in order to heighten awareness of diverse belief systems and family relationships.

APPENDIX

OMBUDSPERSON FOR FAMILIES

257.0755 OFFICE OF OMBUDSPERSON; CREATION; QUALIFICATIONS; FUNCTION.

Subdivision 1. **Creation.** One ombudsperson shall operate independently from but in collaboration with each of the following groups: the Indian affairs council, the council on affairs of Chicano/Latino people, the council of Black Minnesotans, and the council on Asian-Pacific Minnesotans.

Subd. 2. **Selection; qualifications.** The ombudsperson for each community shall be selected by the applicable community-specific board established in section 257.0768. Each ombudsperson serves in the unclassified service at the pleasure of the community-specific board and may be removed only for just cause. Each ombudsperson must be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze question of law, administration, and public policy regarding the protection and placement of children from families of color. In addition, the ombudsperson must be experienced in dealing with communities of color and knowledgeable about the needs of those communities. No individual may serve as ombudsperson while holding any other public office.

Subd. 3. **Appropriation.** Money appropriated for each ombudsperson from the general fund or the special fund authorized by section 256.01, subdivision 2, clause (15) is under the control of each ombudsperson for which it is appropriated.

257.076 DEFINITIONS

Subdivision 1. **Scope.** For the purposes of sections 257.0755 to 257.0768, the following terms shall have the meanings given them in this section.

Subd. 2. **Agency.** "Agency" means the divisions, officials, or employees of the state departments of human services and health and local district courts or a designated county social service agency as defined in section 256G.02, subdivision 7, engaged in providing child protection and placement services for children. "Agency" also means any individual, service, or program providing child protection or placement services in coordination with or under contract to any other entity specified in this subdivision.

Subd. 3. **Communities of color.** "Communities of color" means the following: American Indian, Hispanic-Latino, Asian Pacific, African, and African-American communities.

Subd. 4. **Compadrazgo.** "Compadrazgo" is a kinship institution within the Hispanic-Latino community used as means of parenting and caring for children from birth to adulthood.

Subd. 5. **Family of color.** "Family of color" means any family with a child under the age of 18 who is identified by one or both parents or another trusted adult to be of American Indian, Hispanic-Latino, Asian-Pacific, African, or African-American descent.

Subd. 6. **Facility.** "Facility" means any entity required to be licensed under chapter 245A.

Subd. 7. **Trusted adult.** "Trusted adult" means an individual recognized by the child's parent or legal guardian, the child's community, or both, as speaking for the child's best interest. The term includes compadrazgo and other individuals with a kinship or community relationship with the child.

257.0761 ORGANIZATION OF THE OFFICE OF OMBUDSPERSON

Subdivision 1. **Staff, unclassified status; retirement.** The ombudsperson for each group specified in section 257.0755 may select, appoint, and compensate out of available funds the assistants and employees as deemed necessary to discharge responsibilities. All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsperson in the unclassified service. The ombudsperson and full-time staff shall be members of the Minnesota state retirement association.

Subd. 2. **Delegation to staff.** The ombudsperson may delegate to staff members any of the Ombudsperson's authority or duties except the duty of formally making recommendations to an administrative agency or reports to the office of the governor, or to the legislature.

257.0762 DUTIES AND POWERS

Subdivision 1. **Duties.** (a) Each ombudsperson shall monitor agency compliance with all laws governing child protection and placement, as they impact on children of color. In particular, the ombudsperson shall monitor agency compliance with sections 256E.07, subdivision 3a, 256F.08; 257.072; 257.075; 257.35 to 257.3579; and 260.181, subdivision 3.

(b) The ombudsperson shall work with local state courts to ensure that:

- (1) court officials, public policymakers, and service providers are trained in cultural diversity. The ombudsperson shall document and monitor court activities in order to heighten awareness of diverse belief systems and family relationships;
- (2) experts from the appropriate community of color including tribal advocates are used as court advocates and are consulted in placement decisions that involve children of color;
- (3) guardian ad litem and other individuals from communities of color are recruited, trained, and used in court proceedings to advocate on behalf of children of color; and
- (4) training programs for bilingual workers are provided.

Subd. 2. **Powers.** In carrying out the duties in subdivision 1, each ombudsperson has the power to:

- (1) prescribe the methods by which complaints are to be made, reviewed, and acted upon;
- (2) determine the scope and manner of investigations to be made;
- (3) investigate, upon a complaint or upon personal initiative, any action of any agency;
- (4) request and be given access to any information in the possession of any agency deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to set reasonable deadlines within which an agency must respond to requests for information. Data obtained from any agency under this clause shall retain the classification which it had under section 13.02 and shall be maintained and disseminated by the ombudsperson according to chapter 13;
- (5) examine the records and documents of an agency;
- (6) enter and inspect, during normal business hours, premises within the control of an agency; and
- (7) subpoena any agency personnel to appear, testify, or produce documentary or other evidence which the ombudsperson deems relevant to a matter under inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state. The ombudsperson may compel nonagency individuals to testify or produce evidence according to procedures developed by the advisory board.

257.0763 MATTERS APPROPRIATE FOR REVIEW.

(a) In selecting matters for review, an ombudsperson should give particular attention to actions of an agency, facility, or program that:

- (1) may be contrary to law or rule;
- (2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency, facility, or program;
- (3) may result in abuse or neglect of a child;
- (4) may disregard the rights of a child or other individual served by an agency or facility; or
- (5) may be unclear or inadequately explained, when reasons would have been revealed.

(b) An ombudsperson shall, in selecting matters for review, inform other interested agencies in order to avoid duplicating other investigations or regulatory efforts, including activities undertaken by a tribal organization under the authority of sections 257.35 to 257.3579.

257.0764 COMPLAINTS.

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility or program shall not retaliate or take adverse action, as defined in section 626.556, subdivision 4a, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

257.0765 RECOMMENDATIONS TO AGENCY

(a) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the ombudsperson determines that the complaint has merit or the investigation reveals a problem, the ombudsperson may recommend that the agency, facility or program:

- (1) consider the matter further;
 - (2) modify or cancel its actions;
 - (3) alter a rule, order, or internal policy;
 - (4) explain more fully the action in question; or
 - (5) take other action as authorized under section 257.0762.
- (b) At the Ombudsperson's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsperson about the action taken on the recommendation or the reasons for not complying with it.

257.0766 RECOMMENDATIONS AND PUBLIC REPORTS

Subdivision 1. **Specific reports.** An ombudsperson may send conclusions and suggestions concerning any matter reviewed to the governor and shall provide copies of all reports to the advisory board and to the groups specified in section 257.0768, subdivision 1. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency, facility, program, or any person, the ombudsperson shall inform the governor and the affected agency, facility, program or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsperson shall include any statement of reasonable length made by that agency, facility, program, or person in defense or mitigation of the Ombudsperson's conclusion or recommendation.

Subd. 2. **General reports.** In addition to whatever conclusions or recommendations the ombudsperson may make to the governor on an ad hoc basis the ombudsperson shall at the end of each year report to the governor concerning the exercise of the Ombudsperson's functions during the preceding year.

257.0767 CIVIL ACTIONS.

The ombudsperson and designees are not civilly liable for any action taken under sections 257.0755 to 257.0768 if the action was taken in good faith, was within the scope of the Ombudsperson's authority, and did not constitute willful or reckless misconduct.

257.0768 OMBUDSPERSON'S ADVISORY COMMITTEE.

Subdivision 1. **Membership.** Four community-specific boards are created. Each board consists of five members. The chair of each of the following groups shall appoint the board for the community represented by the group: The Indian affairs council; the council on affairs of Chicano/Latino people; the council on Black Minnesotans; and the council on Asian-Pacific Minnesotans. In making appointments, the chair must consult with other members of the council.

Subd. 2. **Compensation; chair.** Members do not receive compensation but are entitled to receive reimbursement for reasonable and necessary expenses incurred. The members shall designate four rotating chairs to serve annually at the pleasure of the members.

Subd. 3. **Meetings.** Each board shall meet regularly at the request of the appointing chair or the ombudsperson.

Subd. 4. **Duties.** Each board shall appoint the ombudsperson for its community. Each board shall advise and assist the ombudspersons in selecting matters for attention; developing policies, plans, and programs to carry out the ombudspersons' functions and powers; establishing protocols for working with the communities of color; developing procedures for the ombudspersons' use of the subpoena power to compel testimony and evidence from nonagency individuals; and making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights. The committee shall function as an advisory body.

Subd. 5. **Terms, compensation, removal, and expiration.** The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section 15.0575.

Subd. 6. **Joint meetings.** The members of the four community-specific boards shall meet jointly at least four times each year to advise the ombudspersons on overall policies, plans, protocols, and programs for the office.

257.0769 FUNDING FOR THE OMBUDSPERSON PROGRAM.

(a) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Indian Affairs Council for the purposes of sections 257.0755 to 257.0768.

(b) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Spanish-Speaking Affairs Council for the purposes of sections 257.0755 to 257.0768.

(c) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council of Black Minnesotans for the purposes of sections 257.0755 to 257.0768.

(d) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council on Asian-Pacific Minnesotans for the purposes of sections 257.0755 to 257.0768.