

**CHAPTER 200: ORGANIZATION STANDARDS AND RESPONSIBILITIES**

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**201: The Illinois Department on Aging Responsibilities**

- A. The Department shall:
1. establish an Office of the State Long-Term Care Ombudsman (Office) which shall be headed by the State Long-Term Care Ombudsman.
  2. provide for sufficient staff to carry out the state and federal statutory responsibilities of the Program.
  3. ensure that the Office of the State Long-Term Care Ombudsman (Office) is a distinct entity separately identifiable, and located within or connected to the Department.
  4. ensure that the Ombudsman Program shall have sufficient authority and access to facilities, residents, participants, and information needed to fully perform all of the functions, responsibilities, and duties of the Office.
  5. require that the State Ombudsman serve on a full-time basis. The functions, responsibilities, and duties, as set forth in [45 CFR §1324.13 and §1324.19] are to constitute the entirety of the Ombudsman's work. The Department shall not require or request the State Ombudsman to be responsible for leading, managing, or performing the work of non-Ombudsman services or programs except on a time-limited, intermittent basis.
  6. ensure that the State Ombudsman meets minimum qualifications which shall include, but not be limited to, demonstrated expertise in:
    - a) long-term services and supports or other direct services for older persons or individuals with disabilities;
    - b) consumer-oriented public policy advocacy;
    - c) leadership and program management skills; and
    - d) negotiation and problem resolution skills.
  7. not have personnel policies or practices which prohibit the State Ombudsman from performing the functions and responsibilities of the State Ombudsman.
  8. provide opportunities for training for the Ombudsman Program in order to maintain expertise to serve as effective advocates for residents and participants.

9. provide personnel supervision and management for the State Ombudsman and Ombudsmen who are employees of the Department. Such management shall include an assessment of whether the Office is performing all of its functions under the Act.
10. ensure that any review of files, records or other information maintained by the Program is consistent with the disclosure limitations set forth in [45 CFR §1324.11(e)(3) and §1324.13(e)].
11. work with the State Ombudsman to identify, remedy, and remove conflicts of interest between the Office and the Department.
12. integrate the goals and objectives of the Office into the State Plan and coordinate the goals and objectives of the Office with those of other programs established under Title VII of the Older Americans Act and other state elder rights, disability rights, and elder justice programs, including, but not limited to, legal assistance programs provided under section 306(a)(2)(C) of the Older Americans Act, to promote collaborative efforts and diminish duplicative efforts. The Department shall require inclusion of goals and objectives of Regional Long-Term Care Ombudsman Programs into area plans on aging.
13. provide for appropriate sanctions with respect to interference, retaliation and reprisals.
14. ensure legal counsel for the Ombudsman program is adequate, available, has competencies relevant to the legal needs of the program and of residents, and is without conflict of interest (as defined by the State ethical standards governing the legal profession).
15. at a minimum, ensure that the Office shall have access to an attorney knowledgeable about the federal and state laws protecting the rights of residents and governing long-term care facilities. Legal representation of the Ombudsman Program by the State Ombudsman or another Ombudsman who is a licensed attorney shall not by itself constitute sufficiently adequate legal counsel.
16. ensure that the communications between Ombudsmen and legal counsel are subject to attorney-client privilege.

**202: State Long-Term Care Ombudsman Responsibilities**

- A. The State Ombudsman shall be the head of a unified statewide program.
- B. The State Ombudsman shall operate the Office pursuant to Section 203 of this Manual and in accordance with Department guidelines.
- C. The State Ombudsman is responsible for the leadership and management of the Office.
- D. A State Ombudsman shall have:
  - 1. the understanding of aging, disability, and long-term care issues;
  - 2. the ability to analyze and explain human service data;
  - 3. knowledge and experience in legislative and issue advocacy, public relations, and coalition building;
  - 4. experience managing staff and volunteers;
  - 5. basic computer skills;
  - 6. strong written and verbal communication skills and experience in public speaking;
  - 7. demonstrated problem-solving abilities;
  - 8. familiarity with outcome-based evaluation and quality improvement;
  - 9. a demonstrated commitment on issues relevant to residents and participants;
  - 10. familiarity with legal concepts and the legislative process;
  - 11. a Bachelor's degree and three (3) years of experience as an Ombudsman or an advocate.
- E. The State Ombudsman shall:
  - 1. determine designation, and refusal, suspension, or removal of designation, of Regional Ombudsman Programs. Notwithstanding the reconsideration process, the State Ombudsman shall make the final determination to designate or to refuse, suspend, or remove designation of a Regional Ombudsman Program pursuant to Section 301 of this Manual.

2. determine certification, and refusal, suspension, or removal of certification, of Ombudsmen. The State Ombudsman shall make the final determination to certify or to refuse, suspend, or remove certification of an Ombudsman pursuant to Section 303 of this Manual.
3. establish and maintain an Ombudsman Representative Registry as an official listing of Ombudsmen.
4. reserve the right to remove from the Ombudsman Representative Registry the name of any Ombudsman who fails to meet, maintain, or comply with the standards and requirements of the Ombudsman Program. Any Ombudsman so removed shall not serve, nor represent themselves, as an Ombudsman. The State Ombudsman shall provide for notice of such removal to such individual.
5. review and approve plans or contracts governing Regional Ombudsman Program operations, including, where applicable, through Area Agency on Aging plans, in coordination with the Department.
6. monitor, on a regular basis, the Ombudsman Program performance of Regional Ombudsman Programs.
7. establish procedures for training and certification and continuing education of Ombudsmen.
8. prohibit any individual from carrying out the duties of the Office unless the individual has received the training required or is performing such duties under supervision of an Ombudsman as part of the certification training requirements.
9. investigate allegations of misconduct by Ombudsmen in the performance of Ombudsmen Program duties in accordance with Section 305 of this Manual.
10. manage the files, records, and other information of the Ombudsman Program, whether in physical, electronic, or other formats, including information maintained by Regional Ombudsman Programs pertaining to the cases and activities of the Ombudsman Program. Such files, records, and other information are the property of the Office.
11. maintain the sole authority in making determinations regarding disclosure of Ombudsman Program records.

12. determine the use of fiscal resources appropriated or otherwise available for the operation of the Office. The State Ombudsman shall approve the allocations of federal and state funds provided to Provider Agencies. The State Ombudsman shall determine that program budgets and expenditures of the Office and Regional Ombudsman Programs are consistent with laws, policies and procedures governing the Ombudsman program.
- F. The State Ombudsman shall, personally or through other Ombudsmen:
1. identify, investigate, and resolve complaints that:
    - a) are made by, or on behalf of, residents and participants; and
    - b) relate to action, inaction, or decisions of providers, or representatives of providers of long-term care services; public agencies; or health and social service agencies that may adversely affect the health, safety, welfare, or rights of the residents and participants (including the welfare and rights of residents and participants with respect to the appointment and activities of resident and participant representatives).
  2. provide services to protect the health, safety, welfare, and rights of residents and participants;
  3. inform residents and participants about means of obtaining services provided by the Ombudsman Program;
  4. ensure that residents and participants have regular and timely access to the services provided through the Ombudsman Program and that residents, participants and complainants receive timely responses from Ombudsmen to requests for information and complaints;
  5. represent the interests of residents and participants before governmental agencies, assure that individuals have access to, and pursue (as the State Ombudsman determines as necessary and consistent with resident and participant interests) administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents and participants;
  6. provide administrative and technical assistance to Ombudsmen and Regional Ombudsman Programs;
  7. provide for training of Ombudsmen;
  8. provide statewide systems advocacy. In carrying out systems advocacy efforts of the Office on behalf of residents and participants, the provision of information, recommendations of changes in laws to legislators, and recommendations of changes in regulations and policies to government agencies by the State Ombudsman or other

Ombudsmen do not constitute lobbying activities [45 CFR Part 93].  
The State Ombudsman shall:

- a) analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of residents and participants, with respect to the adequacy of long-term care facilities and services in the State;
  - b) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and
  - c) facilitate public comment on the laws, regulations, policies, and actions;
  - d) provide leadership to statewide systems advocacy efforts of the Office on behalf of residents and participants, including coordination of systems advocacy efforts carried out by the Ombudsman Program;
  - e) provide information to public and private agencies, legislators, the media, and other persons, regarding the problems and concerns of residents and participants and make recommendations related to the problems and concerns. Such determinations and positions shall be those of the Office and shall not necessarily represent the determinations or positions of the Department;
  - f) coordinate with and promote the development of citizen organizations consistent with the interests of residents and participants; and
  - g) promote, provide technical support for the development of, and provide on-going support as requested by resident and family councils to protect the well-being and rights of residents.
- G. Carry out other activities as the Assistant Secretary determines to be appropriate.

**203: Responsibilities of the Office**

- A. The Office shall:
  - 1. work to resolve problems faced by residents and participants;
  - 2. advocate for broad policy, regulatory and/or legislative changes to improve care of residents and participants;
  - 3. plan, develop, and implement training of the Ombudsmen and the Regional Ombudsman Programs;
  - 4. maintain a registry of all Provider Agencies and Ombudsmen and the geographic areas for which each has been assigned;
  - 5. coordinate the activities of the Program with other Department on Aging programs and other state and federal agencies involved in the care of residents or participants;
  - 6. maintain Program records and the Program reporting system;
  - 7. provide information and assistance to the general public, residents, legislators, community organizations and other agencies regarding long-term care issues and state and federal licensing, certification and regulation;
  - 8. provide technical assistance to AAAs, Provider Agencies, and Regional Ombudsmen;
  - 9. provide Program data and analysis;
  - 10. monitor and evaluate the statewide and Regional Programs which may include, but is not limited to:
    - a) reviewing a sample of individual case files for complaint processing review;
    - b) reviewing accuracy of Ombudsman Program activities;
    - c) fiscal monitoring, including review of budget, expenditure, and audit reports;
    - d) reviewing conflict of interest forms and remedies;
    - e) observation of Ombudsmen on visits to facility residents;
    - f) interviewing volunteers and Regional program staff;
    - g) for programs with Ombudsmen who are volunteers, review of volunteer management policies;
    - h) meetings with Provider Agencies and/or Area Agency on Aging staff;



11. establish an advisory group for the Program comprised of representatives from the AAAs, Provider Agencies, and Ombudsmen, with one representative for each planning and service area;
12. prepare and distribute an annual report as described in the Older Americans Act; and,
13. make revisions to this Manual, after consultation with the Department.

**204: Area Agency on Aging (AAA) Responsibilities**

- A. AAAs shall fiscally administer the grants or contracts under which Regional Programs operate in compliance with federal and state laws and administrative rules.
- B. Any AAA contract or grant provision that requires Regional Program service delivery components or data collection policies and procedures, practices or protocols different from those presented in this Manual must be approved in writing by the Office and when necessary, a waiver request must be submitted.
- C. In administering Regional Program services, the AAA shall:
  - 1. support a full-time Regional Ombudsman for each Regional Program;
  - 2. have an active and ongoing responsibility in monitoring; however, AAAs do not have access to Program records which contain identifying information about residents. Ongoing monitoring includes:
    - a) reviewing budget, expenditure and audit reports;
    - b) reviewing Regional Program coordination with other agencies;
    - c) reviewing reports provided by the Office which reflect the activities of the Regional Program;
    - d) reviewing conflict of interest forms and remedies; and
    - e) reviewing policies and procedures of the Provider Agency that relate to the Regional Program.
  - 3. monitor the Regional Program at least once every three (3) years using the Office-approved monitoring tool in order to assess the adequacy of Program services and the internal quality assurance procedures pursuant to the contract or grant with the State Ombudsman being notified of the monitoring visit. The completed monitoring tool shall be submitted to the Office within thirty (30) calendar days of the monitoring visit.
  - 4. review and comment on the Ombudsman Annual Service Plan on an annual basis.
  - 5. adhere to the maintenance of effort requirements for each Regional Program as required by the Older Americans Act;

6. assure that OAA Title VII Ombudsman Program funds are used exclusively for Ombudsman Program services and direct advocacy Program activities;
  7. make no requirement for matching funds for OAA Title VII funds received by the AAA for Regional Ombudsman Program services;
  8. when appropriate, include the Regional Ombudsman in discussions, meetings, conferences, reports and other AAA functions and operations such as boards and advisory councils related to long-term care, and to serve as the voice for residents;
  9. have no unremedied conflicts of interest; and
  10. provide technical assistance related to budgetary concerns and service delivery systems.
- D. AAAs shall support the Regional Program, to the extent possible, by:
1. designating an AAA staff liaison to attend Program-sponsored trainings and meetings pertaining to the Program;
  2. assisting in the development of resources for the operation of the Regional Program, including financial and human resources;
  3. providing opportunities for the Regional Program and other aging and social services organizations to collaborate to promote the health, safety, welfare, and rights of residents;
  4. making appropriate referrals to the Regional Program;
  5. promoting awareness of Ombudsman services to consumers and the general public within the service area;
  6. recognizing the responsibilities of the Regional Ombudsmen to promote systems and issues advocacy on behalf of residents;
  7. carrying out the responsibilities of a Provider Agency when requested by the Office to provide Ombudsman services on an emergency basis pursuant to Section 301 of this Manual, unless there is an irremediable conflict of interest with the AAA; and
  8. providing technical assistance related to the contract or grant.
- E. AAAs shall submit the required financial and programmatic reports to the Department and to the Office in accordance with the established departmental instructions.

- F. The AAA shall award and administer funds for legal services in accordance with standards provided by the Department's Legal Services Developer.
- G. The AAA shall cooperate with the Office to implement a transition plan to minimize disruption in Ombudsman services to residents when the contract or grant for the Regional Program services is terminated or not renewed.
- H. Where an AAA provides Ombudsman Program services directly, it must fulfill the responsibilities of a Provider Agency as outlined in Section 205 of this Manual. Under these circumstances, the Office will fulfill the monitoring role explained in Section 204(C)(2) of this Manual.
- I. The AAA shall notify the Office of any concerns of non-compliance by the Provider Agency in carrying out the duties of the Ombudsman Program.
- J. The AAA may request a waiver pursuant to Section 105(C) of this Manual if, due to demonstrable and unusual circumstances, the AAA anticipates it or its Provider Agency will be unable to comply with responsibilities in this Manual.

**205: Provider Agency Responsibilities**

- A. The Regional Provider Agency is designated by the State Ombudsman to house the Regional Program and to assure the provision of Ombudsman services in the service area designated by a contract with, or grant from, the AAA or the Department.
- B. The Provider Agency shall be responsible for the personnel management, but not the programmatic oversight, of Ombudsmen Program services.
- C. The Provider Agency shall not have personnel policies or practices which prohibit Ombudsmen from performing the duties, or from adhering to the access, confidentiality and disclosure requirements of the Older Americans Act, the Illinois Act on the Aging, and supporting Rules. Nothing in this provision shall prohibit the host agency from requiring that the Ombudsmen adhere to the personnel policies and procedures of the agency which are otherwise lawful.
- D. The Ombudsman Provider Agency shall be the sole provider of designated Ombudsman services in the service area identified through contract with, or grant from, the AAA or the Department.
- E. The Provider Agency shall assure the Regional Programs are in compliance with federal and state laws and regulations, the provisions of this Manual, and the contract or grant for Ombudsman services with the AAA or the Department.
- F. Any Provider Agency requirements different from those presented in this Manual must be approved in writing by the Office.
- G. The Ombudsman Provider Agency shall ensure the Regional Ombudsman meets the requirements of Section 206 of this Manual.
- H. The Provider Agency shall provide a full-time Regional Ombudsman who shall:
  - 1. meet the applicable minimum qualifications (see Section 303 of this Manual);
  - 2. have no duties in the Provider Agency outside the scope of the Regional Program as defined in state and federal law; and
  - 3. actively participate in the development of a budget including any amendments or modifications.

- I. The Provider Agency shall adequately staff the Regional Program to meet or exceed the required ratio of 1 full-time equivalent paid Ombudsman to 2,000 licensed beds subject to sufficient and ongoing local, state and federal funding.
- J. The Provider Agency shall meet or exceed the Program benchmarks established by the Office.
- K. The Provider Agency shall:
  - 1. assist in the development of resources for the operation of the Regional Program, including financial and human resources;
  - 2. provide opportunities for the Regional Program and other aging and social services organizations to collaborate to promote the health, safety, welfare, and rights of residents and participants;
  - 3. promote awareness of Ombudsman services to consumers and the general public within the service area;
  - 4. support the Regional Program to engage in issues advocacy on behalf of residents and participants;
  - 5. provide the Regional Program with a dedicated computer, Internet access, a dedicated telephone line if the agency does not have sufficient lines to accommodate callers, and a cellular phone for the Regional Ombudsman; and
  - 6. retain personnel records for paid and volunteer Ombudsmen for a minimum of five years.
- L. The Provider Agency shall submit financial reports to the AAA and Office as required and shall provide a copy of all Ombudsman Program financial reports to the Regional Ombudsman.
- M. The Provider Agency shall not review or disclose Program Records without consent and approval of the State Ombudsman.
- N. The Provider Agency shall assure that all Ombudsmen are trained in accordance with Section 303 of this Manual.
- O. The Provider Agency shall assure the attendance of the Regional Ombudsman at mandatory statewide Ombudsman trainings and meetings. The Office may approve an exception.
- P. The Provider Agency shall provide professional development opportunities for all Ombudsman staff.

- Q. The Provider Agency shall provide staff support, such as custodial, fiscal management, clerical, and telephone coverage and supervisory support for Program operations.
- R. The Provider Agency shall provide trained back-up support as needed for the operation of the Regional Program.
  - 1. The Provider Agency shall arrange, in consultation with the Office and the AAA, if applicable, for temporary provision of Regional Program services when Ombudsmen staff are unavailable or the Regional Ombudsman position is vacant.
  - 2. The Provider Agency shall arrange and notify the Office and the AAA when the Regional Ombudsman will be unavailable for five (5) or more consecutive business days.
- S. The Provider Agency shall perform each of its responsibilities in administering the Regional Program in accordance with all applicable federal and state laws, regulations, and this Manual.

**206: Regional Ombudsman Responsibilities**

- A. The Regional Ombudsman is responsible for the day-to-day operation of the Regional Program.
- B. The Regional Ombudsman shall:
  - 1. work to resolve complaints made by or on behalf of residents;
  - 2. advocate for broad policy, regulatory, administrative and legislative changes to improve the care of residents;
  - 3. ensure Ombudsmen are trained as required by the Office;
  - 4. recommend individuals for inclusion on the Ombudsman Representative Registry;
  - 5. partner with the Aging and Disability Networks and other stakeholders for the benefit of residents;
  - 6. ensure all Regional Program records are contemporaneously entered into the statewide data and tracking system;
  - 7. review and close all cases in accordance with Section 507 of this Manual;
  - 8. provide information and assistance to the general public, residents, legislators, community organizations and other agencies regarding long-term care issues;
  - 9. provide technical assistance to Ombudsmen;
  - 10. conduct an annual review of Program activities and case documentation;
  - 11. complete and submit an Annual Services Plan as described in Section 407 of this Manual;
  - 12. actively participate in the development of a Regional Program budget;
  - 13. cooperate with and follow the direction of the State Ombudsman on projects, initiatives, and responses to systemic needs;



14. develop a plan for temporary personnel coverage in order to meet the standard of promptness in accordance with Provider Agency policies and the requirements Section 501 of this Manual;
  15. not perform any duties different from those presented in this Manual unless such duties are approved in writing pursuant to Section 105(C) of this Manual.
- C. The Regional Ombudsman may establish a multidisciplinary team (see Section 508 of this Manual).