

# **Ombudsman Compendium**

## **Chapter 1: Recruitment**

Developed by Julie Meashey, Ombudsman Specialist

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## **ABOUT THE AUTHOR**

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## **ABOUT THE DOCUMENT**

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# Recruitment

The first step in finding and keeping effective ombudsmen is evaluating and strengthening our recruitment processes. Whether it be recruiting and hiring paid staff or ombudsman volunteers, our message and our mission must be clear. Accurate and consistent communication leads to recruitment and retention of appropriate individuals.

Recruitment is a continuous process that requires strategizing and periodic evaluation of successes and failures. While active recruitment may only occur once or twice a year (for volunteers) and perhaps less often for paid staff, there must be consistent tracking and evaluation of recruitment efforts and retention strategies. A recruitment strategy must be tailored to meet the needs of the individual program. The focus needs to be on the quality rather than the quantity of applicants. It is important to analyze program structure and management capacity to determine how many individuals the program can feasibly train and supervise. The goal should be to start by growing the program slowly and intentionally rather than by leaps and bounds.

The purpose of this section is to help ombudsmen plan and develop tools necessary for identifying effective ombudsman staff. Recruitment involves preparation and action. Therefore, this chapter is divided into 2 broad sections: Planning and Evaluation & Screening and Selection.

## **Planning and Evaluation**

- Ombudsman Program Needs and Management Capacity
- Position Descriptions
- Formal Program Commitments
- Application Forms

## **Screening and Selection**

- Recruitment Messages
- Response to Applicant Interest
- Conflict of Interest
- Interview Questions
- Reference and Criminal Background Checks

## Planning and Evaluation

Before active recruitment, there should be an effort to thoughtfully plan and evaluate ombudsman program needs. During this process, the types of expertise and desired applicant qualities should be examined as well as the supervisory capacity of the program. Program policies and procedures should be developed and in place prior to screening and selection of applicants. And, detailed position descriptions should be developed and utilized in recruitment efforts.

### Ombudsman Program Needs and Management Capacity

#### Paid Ombudsman Staff and Volunteer Ombudsmen

Ombudsman volunteers fulfill a variety of roles and responsibilities and are often officially designated as representatives of the program meaning that they generally perform the same duties as paid ombudsmen. Other volunteers may serve in a “friendly visitor” capacity and assist ombudsmen by regularly visiting facilities and educating residents about their rights, but referring complaints to paid staff ombudsmen.

- Note: For the purposes of this Compendium, we will focus on paid and volunteer ombudsmen who are complaint investigators. These materials may need to be adapted if they are to be used with volunteers who are operating as “friendly visitors.”

#### **Older Americans Act (OAA) Requirements**

- The Older Americans Act (OAA) requires each state to employ 1 full-time State Ombudsman [42USC3058g(a)(1)&(2)].
- The OAA establishes the State Ombudsman position and explains the State Ombudsman’s authority in overseeing representatives of the program. [42USC3058g(a)(3),(4),&(5)]

#### **Sec. 3058g. State Long-Term Care Ombudsman program**

##### (a) Establishment

(1) In general. — In order to be eligible to receive an allotment under section 3058b of this title from funds appropriated under section 3058a of this title and made available to carry out this subpart, a State agency shall, in accordance with this section—

- (A) establish and operate an Office of the State Long-Term Care Ombudsman; and
- (B) carry out through the Office a State Long-Term Care Ombudsman program.

(2) Ombudsman. — The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

(3) Functions. — The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—

- (A) identify, investigate, and resolve complaints that—
  - (i) are made by, or on behalf of, residents; and
  - (ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of—
    - (I) providers, or representatives of providers, of long-term care services;
    - (II) public agencies; or
    - (III) health and social service agencies;
- (B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;
- (C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);
- (D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;
- (E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
- (F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;
- (G)(i) 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 the residents, with respect to the adequacy of long-term care facilities and services in the State;

(ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

(iii) facilitate public comment on the laws, regulations, policies, and actions;

(H)(i) provide for training representatives of the Office;

(ii) promote the development of citizen organizations, to participate in the program; and

(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

(I) carry out such other activities as the Assistant Secretary determines to be appropriate.

AoA Policy Interpretation – “Full-time basis” means the position is full-time, and the individual who serves in the position has no duties other than those directly related to the Long-Term Care Ombudsman Program, as defined in Section 712 of the Act.<sup>1</sup>

#### (4) Contracts and arrangements

(A) In general. — Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) Licensing and certification organizations; associations  
The State agency may not enter into the contract or other arrangement described in subparagraph (A) with—

(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

(ii) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

#### (5) Designation of local Ombudsman entities and representatives

(A) Designation. — In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

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<sup>1</sup> State Long-Term Care Ombudsman Provisions in the Older Americans Act, as Amended in 2000, By Topic, With Policy Interpretations. Contact the NORC for copies.

## **Institute of Medicine (IoM) Guidance**

### **Capacity of Ombudsman Staff**

- Recommends 1 full-time equivalent paid ombudsman staff per 2,000 long-term care beds as “...an essential resource standard and...measure against which adequacy of resources can be determined.” (p. 202)
- The IoM recommendation is a minimum standard of 1 full-time paid staff member (equivalent manager) to every 40 volunteers. The recommendations provide guidance that “...strongly encourages state LTC ombudsman programs to maintain paid staff-to-volunteer ratios at levels that are far more robust than the 1:40 level.” (p.160)

### **Qualifications of Ombudsman Staff**

- The IoM distinguishes between exemplary, essential, and unacceptable practices in Qualifications of Representatives of the Ombudsman Program (p. 164) (See Sample Items for this section to view IoM Table 5.3 detailing these practices)
- This guidance relates to representatives having skills in the areas of advocacy, problem solving, consumer education, LTC or community organizing, and management as well as being free from conflicts of interest.

#### **A note about volunteer ombudsmen**

The IoM found that programs that include ombudsman volunteers are able to make more routine visits and handle more complaints. The study found that volunteers add a level of authenticity to the program because they represent the community’s interest in protecting vulnerable older adults. The volunteer’s presence represents the grassroots approach that was the intention of the program by design. The standards developed by the IoM are a way of recognizing the importance of this resource and ensuring the effectiveness of volunteer programs.

## **The LTCOP: Rethinking & Retooling Recommendations (Bader Report)**

- “Recruitment strategies and techniques must identify appropriate candidates for the job - paid or volunteer - in terms of skills, values and temperament, so as not to waste personal or program time and resources.” (Bader Report, p. 26)

- “...by spending extra time and effort up front the ‘pay off will be more competent and satisfied staff with decreased attrition down the road.’” (Bader Report, p. 29).

In his paper “Training and Qualifications for the LTCOP” for the Bader Series, Dr. Wayne Nelson asserts that the ombudsman position whether it be paid or volunteer is one of the most challenging positions within the long-term care network. Ombudsmen have a role that requires them to enter a long-term care facility which is new to them and point out problems and concerns with the quality of care. Then they must rely on the skills of advocacy and persuasion to encourage improvements. In doing so, the ombudsman will be met with a variety of interpersonal challenges including defensive or even hostile facility administration. Is it any wonder that turnover among ombudsmen, and particularly volunteers, is high?

Dr. Nelson points out that in order to retain good ombudsmen we must appropriately recruit, train, and manage these individuals. The first step in the process of finding and keeping effective ombudsmen is to identify the qualities and skills that potential applicants should have.

#### Sample Items:

1. Institute of Medicine Table 5.3, p.164 - Qualifications of Representatives of the Office
  - table distinguishes between exemplary, essential, and unacceptable practices in ombudsman qualifications
2. Long-Term Care Ombudsman Volunteer Program Procedure Flow Chart (HI SLTCOP)
  - details process of recruiting volunteers from start to finish
3. Recruitment and Selection Process Outline (Pierce County, WA LTCOP)
  - details the recruitment planning and screening processes from beginning to end
  - includes a unique approach - providing orientation training for applicants prior to interview
4. Volunteer Recruitment Steps (OK SLTCOP)
  - details another method of planning and then executing a recruitment strategy
5. Recruitment Planning (TX SLTCOP)
  - a mathematical approach to recruitment planning

## Position Descriptions

Ombudsman position descriptions should be developed based on the duties described in the Older Americans Act and the skill and knowledge base that will enable ombudsmen to be effective advocates. There should be very few differences between a description for paid or volunteer positions except perhaps in the areas of title, supervision, and time commitments.

The more specific and accurate a position description is, the more likely it is to attract and aid in the retention of effective ombudsmen. Therefore, it is important to tailor the description to individual program needs being as upfront as possible regarding program expectations. Avoid using vague terms such as “Hours: Flexible” especially in volunteer descriptions.

The following items are essential elements of a detailed ombudsman position description. Many elements of the position description (ie. responsibilities, training/certification requirements, restrictions, and evaluations) should be supported by program policies and procedures.

### **A note about volunteer ombudsmen**

It may be necessary and appropriate for programs to tailor volunteer position descriptions to fulfill certain program needs. Some local ombudsman programs have found unique ways of attracting expert volunteers that enhance their program’s ability to assist residents. For example, some programs are recruiting volunteers who have foreign language expertise, pharmaceutical backgrounds, and individuals with knowledge in screening and selecting future volunteers! See the Sample Items for this section for position descriptions for these and other types of volunteer positions.

### Elements of a Position Description:

- position title
- time commitment
- duties or responsibilities (should be tied back to language in the Older Americans Act - which is very specific - and to applicable state laws & mandates)
- qualifications
- training/certification requirements (initial and continuing to maintain certification; include designation/certification information)
- supervision
- description and purpose
- restrictions (conflict of interest provisions, confidentiality provisions, core ombudsman principles, code of ethics)
- probationary requirements; minimum commitments
- evaluation requirement

## Older Americans Act (OAA) Requirements

- The OAA provides a clear description of the responsibilities of the ombudsman and these should be incorporated into ombudsman position descriptions [42USC3058g (a)(5)(B)&(C)]

### (B) Duties

An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency—

- (i) provide services to protect the health, safety, welfare \1\ and rights of residents;
- (ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;
- (iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;
- (iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
- (v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and
- (II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;
- (vi) support the development of resident and family councils; and
- (vii) carry out other activities that the Ombudsman determines to be appropriate.

### (C) Eligibility for designation

Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall—

- (i) have demonstrated capability to carry out the responsibilities of the Office;
- (ii) be free of conflicts of interest and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves;

- (iii) in the case of the entities, be public or nonprofit private entities; and
- (iv) meet such additional requirements as the Ombudsman may specify.

### **The LTCOP: Rethinking & Retooling Recommendations (Bader Report)**

- Develop detailed position descriptions for all paid and volunteer staff positions tied to clearly defined organizational objectives.
- Include copy of Ombudsman Code of Ethics with recruitment materials along with detailed position description. (*see the Sample Items for the section on Recruitment Messages for a copy of the Code of Ethics*)
- “NASOP should articulate the values of the ombudsman program through a mission statement for the LTCOP, grounded in the Older Americans Act.” (*see this section’s Sample Items for a copy of this mission statement*)

#### Notable Provisions from Ombudsman Position Descriptions<sup>2</sup>:

1. Long-Term Care Ombudsman Representative Volunteer (Montgomery County, MD LTCOP)

##### Duties:

- ❖ Participate in the survey inspection process by sharing pertinent information with the inspecting officials from the Office of Health Care Quality and their designees; attend exit conferences and share overall results with ombudsman staff.
- ❖ Consult ombudsman staff for guidance prior to testifying before legislative or administrative hearings.
- ❖ Consult ombudsman staff for guidance prior to making public statements or giving an interview to the media.

2. Certified Volunteer Ombudsman (TX LTCOP)

##### Specific Duties:

- ❖ Demonstrate sensitivity to the social and emotional needs of residents.

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<sup>2</sup> The National Ombudsman Resource Center has a variety of position descriptions for paid and volunteer ombudsmen. For copies of these or more specific information about position descriptions, contact the NORC.

- ❖ Provide in-service training to facility staff as appropriate and with concurrence of regional ombudsman.

### 3. Ombudsman Mission and Philosophy (OR SLTCOP)

- ❖ Though Ombudsmen must be professional, impartial, and fair in pursuit of their mission, they are first and foremost patient advocates and will approach every problem from this essential perspective.
- ❖ Ombudsmen strive to become the eyes, ears and voices for the institutionalized elderly; they seek to encourage self direction and autonomy among long-term care residents. They strive to remove barriers to quality care and stand as implacable foes of institutional repression wherever it exists and in whatever form it takes.

#### Sample Items:

1. National Association of State Ombudsman Programs Mission Statement
2. Regional Long Term Care Ombudsman (WA SLTCOP)
  - note the headed “restrictions” that details conflict of interest provisions
3. State Long Term Care Ombudsman Volunteer Coordinator (HI SLTCOP)
  - describes duties of individual responsible for management and oversight of volunteer program
4. Lead Ombudsman (Salt Lake County, UT LTCOP)
  - note the unique design that includes evaluation format detailing responsibilities and standards
5. Certified Volunteer Long-Term Care Ombudsman (Suffolk County, NY LTCOP)
  - example of a position description for volunteer ombudsmen
6. Volunteer Pharmacist Consultant (Salt Lake County, UT LTCOP)
  - example of creating volunteer opportunities to meet program needs
7. Volunteer Ombudsman, Foreign Language Specialist (Northern VALTCOP)
  - a second example of creating volunteer opportunities to meet program needs
8. Volunteer Ombudsman Mentor (Northern VALTCOP)
  - example of a position description for seasoned ombudsman volunteer to assist in providing guidance and support to new volunteers

## Formal Program Commitments

Some Ombudsman Programs require individual commitments to the program with the signing of a formal statement or agreement. These commitments may be used in connection with the screening process as a part of the application. If a person can not or will not make the time or training commitments, or can not pass the conflict of interest commitment, there is no need to go through a full application process. Commitments may also be utilized after an individual has completed training.

This commitment statement generally serves two purposes:

- 1- It reminds ombudsmen of their responsibilities under the program and formalizes their agreement to follow program policies and procedures, and
- 2- It serves as a contract between the program and the individual in regards to expectations (some forms even spell out the expectations of the individual and what the individual can expect from the program - *see example from Legal Assistance Foundation of Metropolitan Chicago Ombudsman Program*)
  - Formalizing this process gives the program an opportunity to further communicate certain standards that are required of any candidates for the position of ombudsman such as initial training, time commitments, designation/certification by the State Ombudsman, participation in continuing education, and adherence to the program's policies and procedures.
  - These formal agreements serve as a contract between the program and the ombudsman and can be helpful in communicating that there are consequences for an inability or unwillingness to follow program guidelines (ie. violation may mean termination).

### Use of formal agreements with Ombudsman Volunteers

- The formal commitment can serve as a screening tool - some programs include a time frame as a part of this commitment where a volunteer ombudsman agrees to serve the program for a specified amount of time (usually a year). This may weed out individuals who are not willing to make this type of commitment.
- Programs that use this type of agreement generally have the volunteer fill it out after they have received initial training and before they have been assigned to a facility.

- Some programs may review these forms at recertification or continuing education events and may ask for these commitments to be renewed on an annual basis.

Sample items:

1. Volunteer Commitment Form (Legal Assistance Foundation of Metropolitan Chicago, IL LTCOP)
  - volunteer commitment form that clearly spells out the program expectations and shows responsibilities of both the program and the volunteer
2. Confidentiality Agreement (Salt Lake County, UT LTCOP)
  - specifies confidentiality provisions and program policy related to this core ombudsman principle
3. Conflict of Interest Statement and Ethical Guidelines (OK SLTCOP)
  - covers several provisions related to core ombudsman principles
4. Statement of Agreement between Ombudsman Volunteer Representative and LTCOP (HI SLTCOP)
  - includes a statement about personal liability coverage
  - includes provision about SLTCO authority to de-certify individual for failure to meet qualifications, guidelines, or expectations

## **Application Forms**

The application form should be designed with screening mechanisms included to assess or measure initial qualities that impact selection like conflict of interest. While some states may have required forms for paid staff, it is important to make sure that the questions below are included in any application for the long-term care ombudsman position (paid or volunteer).

The application form can also be designed to include questions that evaluate recruitment methods. Including a question or set of questions about how the applicant heard about the position and then analyzing these trends (particularly when doing a massive recruitment campaign for volunteers) may indicate the most fruitful methods of recruitment.

Long-Term Care Ombudsman Programs are using a variety of application designs and formats. The application should be designed to meet the needs of the individual program. Some technologically proficient programs have developed applications that can be submitted on-line. See the Capital Area Agency on Aging Ombudsman Program's (Austin, Texas) on-line application form at: <http://www.aaacap.org/ombdsmnvoicemail.html>

### **Questions Addressing Conflict of Interest**

- 1a. Have you worked in a long-term care facility?  
If yes,
  - Which facility?
  - Were you a paid employee or a volunteer? Describe your work.
- 1b. Do you or an immediate family member have a financial interest in a long-term care facility (e.g., owner, employee, partnership, stockholder, board member)? If yes, please explain.
- 2a. Have you ever had a relative in a nursing home or assisted living facility? If yes, what was the degree of relationship?
- 2b. Did it influence your decision to become an ombudsman? Why?
3. Are you a guardian, conservator or power of attorney for a nursing home or assisted living resident? If yes, which facility?

## **Questions Regarding Program Commitments** (particularly for volunteers)

1. How many hours a week are you available to work with the Ombudsman Program?
2. What time of day would you prefer to work as a volunteer? What day of week?
3. Are you available and willing to work a specified time and/or on specified days between specified hours? (e.g., 4 hours per week, Monday through Friday, during working hours - 8 am to 5 pm)
4. Are you willing to devote a specified time to the volunteer ombudsman program plus the time needed to follow through on critical issues?
5. Are you willing to complete the required written reports?

## **Questions Inquiring about Special Skills**

1. Do you speak a foreign language/identify with any cultural group?
2. Do you have special skills/interests that would enhance your work with residents?

## **Questions to Gauge Effectiveness of Recruitment Methods**

1. How did you first learn about the ombudsman program? Newspaper ad, LTCO staff, LTCO volunteer, poster, brochure, flyer, TV ad, Radio ad, etc.

## **Checking References or Conducting Criminal History Checks**

1. Can you provide the names and contact information for people who are familiar with your character and/or work with other organizations?
  - If criminal background check is required, inform applicant of this requirement.

Sample items:

1. Volunteer Application (short) (GA SLTCOP)
  - includes many of the elements above in a condensed format
2. Volunteer Application (long) (GA SLTCOP)
  - includes all of the elements above and is more comprehensive

## Screening and Selection

After the planning and evaluation stage, active recruitment begins and potential ombudsmen are screened using a variety of mechanisms including a formal interview. Applicants who meet the program's qualifications and requirements are then selected and given further training.

As a part of the screening process, recruitment materials should be designed to include messaging that attracts individuals who will make effective ombudsmen. During the interview phase, potential ombudsmen should be posed questions that relate to core values and program principles.

### Recruitment Messages

Ombudsman Programs have a variety of methods for recruiting ombudsman staff. Techniques may vary depending on location (urban versus rural) and whether the program is seeking to fill paid or volunteer positions. Some methods require a financial investment while others are low or no cost.

Whether it is radio ads or internet postings, ombudsman programs should use the recruitment message as a screening tool. Messages about the program's needs should be as specific as possible. Recruitment ads should also provide details about qualifications and commitments.

States have found the following venues successful in recruiting volunteers:

- State Chapter of AARP (targeted recruitment to members in select zip codes)
- Newspapers (local papers may have specific volunteer section)
- Radio Stations (State Association of Broadcasters - most media outlets are required to donate a specific amount of time for community efforts)
- Television Stations (many stations have special community activities and support programs)
- Internet Resources - Idealist.org; VolunteerMatch.org (and many others). Posting on VolunteerMatch is free and the ad is delivered to other websites.
- State volunteer resources like the Retired Senior Volunteer Program (RSVP) or others (ex. VolunteerMaine.gov).
- State Unit on Aging websites
- National Ombudsman Resource Center website ([www.ltombudsman.org](http://www.ltombudsman.org) - Job Announcements section)

- Community Groups (Elks Clubs, Veterans Groups, Rotary Clubs - contact your Chamber of Commerce for a listing and contact information). Hint: Connect with them by explaining the program, and then ask for volunteers.
- Innovations - a local ombudsman program in Tulsa, OK came up with the idea of having ads printed on the back of pharmacy bags.
- Include a link or section on Volunteer Opportunities on your agency's website.
- Word of mouth. Sometimes this is the most successful method. Hint: Ask volunteers to serve as recruiters for the program!

Additional resource: See Energize.Inc - a website designed especially for leaders of volunteers for tips and suggestions on recruitment, screening and recognition ideas. <http://www.energizeinc.com/>

Sample items:

1. The Importance of Key Messages (TX LTCOP)
  - provides guidance on developing a recruitment message
2. Recruitment ad (OK SLTCOP)
  - example of use of key messages
3. Recruitment ad (Salt Lake County, UT LTCOP)
  - features a compelling title
4. News Release (MO SLTCOP)
  - example of providing information on the program while recruiting volunteers
5. Recruitment flyer (Suffolk County, NY LTCOP)
  - provides an example of key messages
6. Volunteer Advocates Needed (Suffolk County, NY LTCOP)
  - recruitment ad that is concise and to the point
7. Volunteer recruitment brochure (Snohomish County, WA LTCOP)
  - example of how brochure format can be used as a recruitment mechanism
8. Volunteer recruitment flyer (Northern VA LTCOP)
  - flyer includes dates and times of next training session and resident quote

9. Volunteer recruitment flyer for foreign language specialists (Northern VA LTCOP)
  - flyer specifying need for volunteers who can speak both Korean and English

## Response to Applicant Interest

The most important thing to do once you have been contacted by potential applicants is be responsive! This is especially important when you are trying to fill volunteer ombudsman positions. You will lose potential volunteers when you take too long to respond to their initial interest.

Responses to initial applicant interest can be handled in a variety of ways. Some programs follow-up with a letter that provides further information on the program and the next steps in the process. Some programs employ a more personal approach and contact interested applicants by telephone. A phone conversation offers an opportunity for the applicant to ask questions, as well as, offers the ombudsman program an additional opportunity to screen individuals prior to offering training. Some programs have volunteers that contact interested applicants. These volunteers can offer unique guidance and perspective on the volunteer position and experience.

### The LTCOP: Rethinking & Retooling Recommendations (Bader Report)

- Include a copy of the Ombudsman Code of Ethics (developed by the National Association of State Ombudsman Programs) with recruitment materials along with a detailed position description (*see Sample Items for this section for a copy of the Code of Ethics*)

#### Sample items:

1. Code of Ethics for Long Term Care Ombudsmen (developed by NASOP)
  - communicates the core principles of the program
2. Follow-up letter (KIPDA District, KY LTCOP)
  - letter provides further information on the process of becoming a volunteer and includes the date and time for the next training opportunity
3. Follow-up letter (Oklahoma City, OK LTCOP)
  - another example of a letter providing further information on the requirements for becoming a volunteer ombudsman

## Conflict of Interest

The Ombudsman role as long-term care resident representative and consumer advocate requires that he or she remain free from conflicts of interest whether they are actual, potential, or perceived. There is much guidance on the aspects of this provision, the most important feature of which is the emphasis on prevention. Long-Term Care Ombudsman Programs need to have sound policies about screening potential representatives of the program and continuing to assess conflicts of interest as circumstances change. Programs that are located in rural areas may have difficulties in preventing conflicts of interest but may find that there are potential remedies that can address this important issue.

Most programs assess real and potential conflicts of interest in the application process. Others assess conflict through disclosure forms or agreements. (*see Sample Items for this section for examples of these agreements*)

States may establish additional guidelines that go above and beyond Older Americans Act provisions. Be sure to check with your State Ombudsman Program regarding any state requirements.

### Older Americans Act (OAA) Requirements

- The Older Americans Act (OAA) includes specific provisions that relate to conflicts of interest [42USC3058g(D)(f)].

(f) Conflict of interest

The State agency shall—

- (1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5) of this section, is subject to a conflict of interest;
- (2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;
- (3) ensure that the Ombudsman—
  - (A) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;
  - (B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

- (C) is not employed by, or participating in the management of, a long-term care facility; and
- (D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and
- (4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as—
  - (A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and
  - (B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

AoA Policy Interpretation – “Immediate family” means spouse, parents, children and siblings.<sup>3</sup>

It would be a conflict of interest for an official or employee of any agency at either the state or local level which directly administers the licensing and certification of long-term care facilities or owns or operates such facilities, or provides services to residents of such facilities, to designate or remove from office the ombudsman or ombudsman representatives.

It would be a conflict for a State agency on aging to certify or regulate assisted living or other long-term care facilities and also operate the Office of the State Long-Term Care Ombudsman. The State agency must choose between the conduct of regulatory enforcement or the operation of the Ombudsman Program.

Employment by a long-term care facility or otherwise receiving, directly or indirectly, remuneration from an owner or operator of a long-term care facility is a clear conflict of interest for any representative of the ombudsman program. Individuals employed by a long-term care facility, an association of facilities, a business or agency which provides services in long-term care facilities or to residents or an agency which licenses or certifies facilities or facility administrators must not be permitted to serve the statewide ombudsman program in any decision-making, policy-setting or program operation capacity. This applies to both paid and volunteer ombudsman staff and

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<sup>3</sup> State Long-Term Care Ombudsman Provisions in the Older Americans Act, as Amended in 2000, By Topic, With Policy Interpretations. Contact the NORC for copies.

ombudsman program boards. The ombudsman program may, of course, seek both information and advice from such individuals.

It is incumbent upon the state agency on aging and the established office of the ombudsman in a state to ensure that, in the conduct of all aspects of the statewide long-term care ombudsman program, the integrity of the work of the ombudsman and ombudsman representatives is maintained. There must be no inappropriate or improper influence from any individual or entity, regardless of the source, which will impact on the objectivity of the investigation or outcome of complaints or the ombudsman's work to resolve major issues related to the rights, quality of care and quality of life of the residents of long-term care facilities.

### **Institute of Medicine (IoM) Guidance**

The IoM identifies three types of conflict of interest that pertain to the role of the ombudsman:

- 1- **Organizational** - conflicts arising from where a program is housed (for example: when an ombudsman program is within an organization that is responsible for licensing and certifying nursing homes)
- 2- **Individual** - having financial interest in LTC facilities or services or having another role or responsibility that may have the potential to influence objectivity as a professional ombudsman (example: serving as a resident's guardian)
- 3- **Willful Interference** - those arising from willful interference in the independent operation of the program

*For more information on the types of conflict of interest see Chapter 4 of the Institute of Medicine Report - <http://www.nap.edu/books/NI000028/html/>*

The IoM describes how conflicts of interest can be dealt with by prevention or by detection and correction. Prevention is the best way to deal with conflicts of interest and tools to detect and prevent conflicts of interest can and must be built into ombudsman screening practices. However, preventing a conflict of interest is not always possible. It may be difficult in rural areas to completely rule out every potential conflict of interest.

The IoM details the different types of remedies for conflicts of interest that can not be prevented. Potential remedies include: "...prohibition, disclosure, disclosure with

alternative options offered, disclosure with refusal to represent a potential client, everyday ethical behavior, and public accountability.” (IoM, p. 119)

### **The LTCOP: Rethinking & Retooling Recommendations (Bader Report)**

- Develop policies regarding conflicts of interest including clear explanatory rationales for each issue as part of the Ombudsman Program’s personnel policy handbook. *(see Sample Items for this section for an example of policies and procedures that incorporate this recommendation)*
- The OAA and the IoM offer guidance on the conflict of interest issue. In his paper “Training and Qualifications for the LTCOP” for the Bader Series, Dr. Wayne Nelson adds further guidance that recommends excluding employees of businesses that provide services to LTC facilities from becoming representatives of the ombudsman program.
- Potential applicants should not stand to gain financially from any LTC facility or business (pensions are okay because they are not conditional meaning the employer can not use them as leverage that would be considered a conflict of interest).

#### Sample items:

1. Georgia LTC Ombudsman Program Policies and Procedures - Section on Conflict of Interest (GA SLTCOP)
  - a clear and concise example of good policies and procedures that implement the IoM recommendations for remedies
2. Conflict of Interest Screen (OH SLTCOP)
  - provides example of questions to be included in thorough screening process

## Interview Questions

Ombudsman applicants who pass the initial screening procedures built into the recruitment process should be formally interviewed. There are a variety of interviewing techniques and procedures that can be used. Programs have developed open ended questions, case scenarios, and other types of assessments to ensure applicants have the characteristics and qualities needed to be an ombudsman.

The interview is the first opportunity for potential ombudsmen to learn more about the program. In fact, it might be seen as the first form of training that ombudsmen receive. During the interview, the interviewer has an opportunity to articulate the role of the ombudsman and the program's values.

Some programs, like the Pierce County, WA LTCOP provide initial orientation training prior to the formal interview. Therefore, some of the questions used to screen potential volunteer ombudsmen require the applicant to apply some of the knowledge acquired during training. The applicant's answers to these questions can reveal whether he or she has retained the program's core values such as advocacy, empowerment, and being resident directed.

### **The LTCOP: Rethinking & Retooling Recommendations (Bader Report)**

- Thoroughly interview applicants via a structured process, undertaken by specialized paid or volunteer screeners trained to determine role suitability using a conflict strategy instrument. (*see Sample Items for this section for examples of conflict strategy instruments*)
- Design questions and procedures to select-in qualified applicants with a high probability of meeting role expectations and to select-out those who do not.
- A good screening process will include questions to assess how the applicant handles conflict and stress resistance; evaluates how the applicant will identify with the patient autonomy model; evaluates communication skills, and ensures that the applicant is assertive, dependable, adaptable, polite, circumspect, unexcitable, and deliberate.
- The screening process must also seek to examine an individual's sense of justice and their residents' rights orientation. (Note: Standards for friendly visitors will be different than those for complaint investigators. With a friendly visitor you are looking for someone who can empathize.)
- During the screening and selection process the interviewer(s) should weigh the negatives more than the positives.

Some programs use a team approach to interviewing by including "veteran" volunteers or other experts in the process. However the interview is conducted, there are key areas to

assess and each interviewer needs to know the role he or she is expected to fill and the desirable characteristics to be looking for when questioning the applicant.

**General Tips on Interviewing**  
(East TN Human Resource Agency LTCOP)

- Listen and ask open questions
- Use your intuition
- Err on the side of caution: Weigh negatives more highly than positives
- Note body language, grooming, attitude, enthusiasm and listening skills

Desirable and Undesirable Characteristics

Desirable Characteristics:

- Ability to communicate effectively
- Positive attitude
- Non-judgmental personality
- Ability to identify primarily with the resident (resident rights orientation versus paternalistic orientation)

Undesirable Characteristics:

- A hidden agenda: ax to grind, vendetta
- A conflict of interest (family in or employed by facility)
- Unable to commit to program time requirement
- Unable or unwilling to comply with program policy and procedures
- Unable or unwilling to accept limits of confidentiality

**Sample Interview Questions**

**To Assess Skills and Understanding of Ombudsman Role**  
(Snohomish County, WA LTCOP)

- ❖ What special skills, interests, and experiences do you bring to the program?
- ❖ Have you had experience solving problems for others at work or in an organization? What is your approach and/or describe a situation.
- ❖ If you are an ombudsman going about your work, how would you demonstrate respect for residents, family, and staff?

- ❖ In many Long-Term Care facilities people have impairments. Have you had experience in communicating with individuals who have a limited ability to communicate?

### **To Assess Applicant Expectations**

- ❖ Tell me about your last volunteer experience. What was the challenge? How would you describe your relations with the agency staff? Why did you decide to leave? (Northern VALTCOP)
- ❖ What do you want to get from the LTC Ombudsman program? (Snohomish County, WALTCOP)

### **To Determine Perception of Ombudsman Role**

- ❖ Why do you think that having volunteer ombudsmen for nursing homes and assisted living facilities is a good idea? (Northern VALTCOP)
- ❖ What is your opinion in general about nursing homes or assisted living and how would you describe the residents living there? (MN SLTCOP)
- ❖ It is important that residents have input in the decisions that affect them. What are some of the decisions or choices you think may be important to residents? (MN SLTCOP)
- ❖ What do you anticipate will be your role and responsibilities as an ombudsman? (Pierce County, WALTCOP)

### **To Evaluate Conflict and Stress Resistance**

- ❖ How do you deal with frustration, anger?
  - 1 - When someone is directing it at you?
  - 2 - When you are experiencing it?(Northern VALTCOP)

### **To Assess Individual Qualities or Characteristics**

- ❖ How would a friend or an associate describe you?  
(Northern VALTCOP)

### **To Evaluate Understanding of Program Expectations**

- ❖ Are you willing to perform the required administrative duties of this position including filling out monthly status reports, reimbursement reports, and attend monthly meetings?  
(Snohomish County, WALTCOP)
- ❖ An important part of the job is to keep the regional ombudsman informed about your regular visits and any concerns you may have. One way that this occurs is through submitting monthly reports. How are you with paperwork? What means might you think of to ensure your reports are submitted on time?  
(Pierce County, WALTCOP)

### **Case Scenarios for Interview Questions**

- ❖ An unsolved problem at the nursing home you've been visiting is getting no response. The administrator keeps canceling appointments and makes plausible-sounding excuses when you finally meet with her. Realizing that you haven't attended our certification training yet, what do your instincts tell you about how to handle this situation?  
(Snohomish County, WALTCOP)
- ❖ As an Ombudsman, what would you do to investigate and resolve the following situation: A family member is concerned about his mother falling out of bed and would like bed rails installed. (Bed rails are often seen as restraints.) What are your next steps?  
(Pierce County, WALTCOP)
- ❖ A resident who is diabetic wants to eat the same chocolate cake for dessert that the rest of the residents eat. The dining room staff tell him that cake is not on his diabetic diet and they won't serve him. He complains to you about the staff not giving him cake. What are your next steps?  
(Pierce County, WALTCOP)

- ❖ A facility wants to discharge a resident because he doesn't follow their rules such as not turning off his TV at 9:00. What are your next steps?  
(Pierce County, WALTCOP)

Sample items:

1. Sample interview tool for Ombudsman Volunteer Supervisor (OK SLTCOP)
  - tool to be used with paid staff who will supervise volunteers
2. Ombudsman Volunteer Interview Form (Northern VALTCOP)
  - form has clear format and questions are directed at assessing key areas
  - includes some notes/instructions to interviewer
3. NORC Conflict Style Inventory (*currently being designed by Dr. Wayne Nelson, Dr. Daniel Agle, and Dr. Donna Cox, Towson State University*)
  - a model specifically designed to assess conflict style
  - also useful as a conflict training tool
4. Ombudsman Role Orientation Profile (*currently being designed by Dr. Wayne Nelson, Dr. Daniel Agle, and Dr. Donna Cox, Towson State University*)
  - examines an individual's orientation to values that are important to advocacy in the long-term care setting

## **Reference and Criminal Background Checks**

One of the final steps before hiring an ombudsman should be performing a reference check. A reference check should be completed for all potential ombudsmen - paid or volunteer. The purpose of the reference check is to verify information about the applicant's background and individual qualifications and characteristics. Reference checks can be comprised of a series of open-ended questions or a series of statements that the reference is asked to read and rate (i.e., strongly agree, agree, disagree, strongly disagree, or don't know).

In addition to the reference check, some states also require a criminal background check to ensure that potential ombudsmen have not been convicted of abuse, neglect, or other crimes that would impact an individual's ability to serve vulnerable older adults. It is important to be aware of any state requirements regarding criminal background checks and to use any forms designated for this purpose. These requirements should be written into program policies and procedures and potential ombudsmen should be informed of these requirements in the application and screening process.

### General Guidance about Reference Checks

- reference checks can be performed in a variety of ways from mailing out a form, e-mailing a form or by telephone
- a phone call with a reference can help you to glean more information (for example - hesitation in a person's voice, etc. can be sensed and questioned)
- ask open-ended questions rather than using forced answers and check boxes
- criminal background checks may be required using a standard state specified form
- some states allow on-line searches of sex offender websites

### Sample Reference Questions

#### **To Assess Qualities Essential to the Ombudsman Role**

- ❖ Describe the applicant's listening skills.
- ❖ What can you tell me about this applicant's dependability and trustworthiness?
- ❖ Do you consider the applicant to be an objective person and not highly emotional in difficult circumstances?

- ❖ What do you know about the applicant’s abilities in the areas of mediation and conflict resolution?
- ❖ Have you ever observed the applicant in an emotionally-charged, frustrating or confusing situation? If so, what was his/her response?
- ❖ Is the applicant mature and able to deal with ambiguous situations in a realistic (not idealistic) manner?
- ❖ Why do you think the applicant applied for the position of Ombudsman?
- ❖ Have you seen the applicant work with elderly? What can you tell me about that?

Sample items:

1. Reference Request Letter (Salt Lake County, UT LTCOP)
  - example of letter sent to reference for potential volunteer ombudsman
2. Volunteer Reference Form (Snohomish County, WA LTCOP)
  - sample of reference check utilizing a rating scale
3. Questions for Volunteer Reference (Snohomish County, WA LTCOP)
  - example of concise but general reference check form
4. Criminal Background Check Overview (MN SLTCOP)
  - provides an excellent explanation of the purpose of the criminal background check

## Conclusion

Recruitment is only one step in finding and keeping effective ombudsmen. Throughout this chapter we have discussed essential elements and provided examples that are the building blocks of a successful program. Planning and evaluation will assist you in determining the needs of your program and how to design materials such as position descriptions and application forms that will support the recruitment of qualified ombudsmen. The screening and selection process will help you further refine the recruitment efforts by focusing on accurate and consistent communication about the program's needs and requirements.

The next step on your path to success in retaining qualified ombudsmen is to focus on training. Interviewing and performing background checks may be your first level of screening, but basic training provides a second opportunity to examine an individual's capacity to understand, identify, and practice core ombudsman competencies. As long-term care issues become increasingly more complex, training becomes a valuable tool in maintaining ombudsman effectiveness and aids in retention.

Chapter two of the Ombudsman Compendium will focus on the important topic of training. The essential elements of ombudsman training programs will be covered and sample training tools will be provided.

The third and final chapter of the Compendium will be about retention. This chapter will explore program management approaches and practices that contribute to retention of effective ombudsmen.