

Designation and De-designation

Question

Can you provide Word (editable) versions of your collection of ombudsman policies and procedures on Designation and de-designation?

Response

The [final rule](#) includes the following requirements for policies and procedures for SLTCOPs regarding designation [§1324.11(e)]:

****Note: Effective July 1, 2016 the Administration for Community Living (ACL) consolidated their regulations into one subchapter resulting in the LTCOP rule number changing from 45 CFR 1327 to 45 CFR 1324. We are in the process of revising our resources to reflect that change. Information about the consolidation is available [here](#).***

(6) Designation. Policies and procedures related to designation must establish the criteria and process by which the Ombudsman shall designate and refuse, suspend or remove designation of local Ombudsman entities and representatives of the Office.

(i) Such criteria should include, but not be limited to, the authority to refuse, suspend or remove designation a local Ombudsman entity or representative of the Office in situations in which an identified conflict of interest cannot be adequately removed or remedied as set forth in § 1324.21.

(ii) [Reserved]

Functions and responsibilities of the State Long-Term Care Ombudsman [§1324.13]:

(c) Designation. The Ombudsman shall determine designation, and refusal, suspension, or removal of designation, of local Ombudsman entities and representatives of the Office pursuant to section 712(a)(5) of the Act and the policies and procedures set forth in § 1324.11(e)(6).

(1) Where an Ombudsman chooses to designate local Ombudsman entities, the Ombudsman shall:

(i) Designate local Ombudsman entities to be organizationally located within public or non-profit private entities;

(ii) Review and approve plans or contracts governing local Ombudsman entity operations, including, where applicable, through area agency on aging plans, in coordination with the State agency; and

(iii) Monitor, on a regular basis, the Ombudsman program performance of local Ombudsman entities.

State Policies and Procedures

Here are examples from three states of designation and de-designation policies and procedures. Complete policies and procedures manuals/documents are available on the NORC [website](#).

Montana

200. Designation and De-Designation of Ombudsman Programs and Ombudsmen

How to use this Chapter: This Chapter sets forth procedures for designation and de-designation by the Office of the State Long-term Care Ombudsman as follows:

- 1) designation of ombudsman programs (i.e., provider agencies),
- 2) de-designation of ombudsman programs,
- 3) designation of ombudsmen (including minimum qualifications), and
- 4) refusal to designate an individual as an ombudsman and de-designation of ombudsmen.

Each section includes:

- 1) criteria used in designating (or de-designating) and
- 2) the process used in designation (or designating). For designation (or de-designation) of ombudsman programs, the process is described separately for the possible placements of the provider agency:
 - a) area agency on aging serves as the provider agency; and
 - b) provider agency contracts directly with the Office on Aging.

201. Designation of Ombudsman Programs

POLICY

The State Ombudsman shall designate provider agencies to provide ombudsman services throughout Montana.

PROCEDURES

201.1 Criteria for designation as a provider agency

In order to be eligible for designation by the Office of the State Long-term Care Ombudsman (SLTCO) as a provider agency, an entity must:

- a. be a public or nonprofit entity;
- b. not be an agency or organization responsible for licensing or certifying long-term care services.
- c. Not be an association (or an affiliate of an association) of providers of long-term care or residential services for older persons;
- d. Have no financial interest in a long-term care facility;
- e. Have demonstrated capability to carry out the responsibilities of the provider agency (see II-304, below);
- f. Have no **unremedied** conflict of interest (see II-400, below); and

- g. Meet all contractual requirements of the Department of Public Health and Human Services.

201.2 Process for designation of a provider agency, generally

- a. As of the effective date of these procedures, any entity providing long-term care ombudsman (LTCO) services under contract with the DPHHS, Senior and Long Term Care Division, Office on Aging or the relevant Area Agency on Aging (AAA) shall be designated as a provider agency.

201.3 Process for designation of a provider agency, where the Area Agency on Aging serves as provider agency

Where the AAA seeks to serve as the provider agency, the designation of a new provider agency shall occur as follows:

- a. The AAA **shall** be considered as a provider agency where the SLTCO determines that either:
 - i) designation of the AAA as the provider agency is necessary to assure an adequate supply of ombudsman services; or
 - ii) services of comparable quality can be provided more economically by the AAA.
- b. The AAA shall request consideration to be designated as a provider agency and submit an Ombudsman Services Plan to the SLTCO setting forth:
 - i) The goals and objectives of such entity in providing LTCO services,
 - ii) A description of how each Program Component shall be met by such entity (see III-100, below), and including its staffing plan for the community LTCOP, and
 - iii) A description of the resources of the entity which will be provided to assist in the operation of the community LTCOP.
- c. The SLTCO **shall** designate the AAA as the provider agency where:
 - i) The AAA meets the criteria for designation;
 - ii) The AAA, at the time of application, submits an acceptable Ombudsman Services Plan; and
 - iii) The AAA is not otherwise prohibited from fulfilling the duties of the provider agency.
- d. The SLTCO shall notify the AAA within thirty (30) days of the receipt of the Ombudsman Services Plan of its decision. If the SLTCO refuses to designate the AAA as the provider agency, the notification shall include the notice of the right of the AAA to request a hearing to appeal the SLTCO determination pursuant to the Hearings Procedures. (Appendix D).

- e. The execution date of the AAA's contract with the Office on Aging to provide LTCO services shall be the effective date of designation.
- f. The AAA may subcontract all or portions of their responsibility as long as the AAA assures that the subcontractor will meet all the requirements of a provider agency.

201.4 Process for designation of a provider agency, where the Office on Aging contracts directly with provider agency

Where the contract for LTCO services is not with or through the AAA, the designation of a new provider agency shall occur as follows:

- a. The Office on Aging shall issue a RFP seeking an entity to provide LTCO services within a particular service area. The RFP shall identify the criteria for designation as a provider agency and shall request submission of documents supporting the entity's claim to meet these criteria.
- b. The Office on Aging shall require that all of the responding entities which meet the criteria for designation develop an Ombudsman Services Plan setting forth:
 - i) the goals and objectives of such entity in providing LTCO services, and
 - ii) a description of how each Program Component shall be met by such entity (see III-100, below), and including its staffing plan for the community LTCOP, and
 - iii) a description of the resources of the entity which will be provided to assist in the operation of the community LTCOP.
- c. The SLTCO shall review each submitted Ombudsman Services Plan and shall choose the entity most appropriate to serve as the provider agency based on the submitted Ombudsman Services Plans and on the criteria for designation. In considering which entity is most appropriate to designate as the provider agency, the SLTCO may consult with the AAA serving the relevant service area.
- d. The SLTCO shall notify the responding entities of this determination within forty-five (45) days. The notification shall include notice of the right of every entity not chosen to request a hearing to appeal the SLTCO determination pursuant to the hearing Procedures.
- e. The Office on Aging shall contract with the provider agency to provide LTCO services. Such contract must:
 - i) specify the service area;
 - ii) require the provider agency to adhere to all applicable federal and state laws, regulations, and policies; and
 - iii) provide that designation by the SLTCO continues for the duration of the contract and subsequently renewed contracts unless the provider agency is de-designated by the SLTCO (see II-202.2, below).

- f. The execution date of the provider agency's contract with the Office on Aging to provide ombudsman services shall be the effective date of the designation.

202. De-designation of Ombudsman Programs

POLICY

The State Ombudsman may de-designate an entity as a provider agency for cause.

PROCEDURES

202.1 Criteria for de-designation

The SLTCO may refuse to designate or may de-designate an entity as a provider agency for one or more of the following reasons:

- a. failure of the entity to continue to meet the criteria for designation (II-201.1, above);
- b. existence in the entity of an **unremedied** conflict of interest with the LTCOP;
- c. deliberate failure of the entity to disclose any conflict of interest;
- d. violation of LTCO confidentiality requirements by any person employed by, supervised by, or otherwise acting as an agent of the entity;
- e. failure of the entity to provide adequate LTCO services, including but not limited to failure to perform enumerated responsibilities (see II-304, below), failure to fill a vacant ombudsman position within a reasonable time, failure to submit a LTCOP Annual Plan (see III-100.1, below) for approval by the SLTCO, or failure to use funds designated for the LTCOP for LTCO services;
- f. failure of the entity to adhere to the provisions of the contract for the provision of ombudsman services; or
- g. failure of the entity to adhere to applicable federal and state laws, regulations and policies.

202.2 Process for de-designation of a provider agency

- a. Where an AAA contracts with a provider agency, the process to de-designate the provider agency shall be as follows:
 - i) The SLTCO shall send notice of the intent to de-designate at a specified date to the AAA and the provider agency. The notice shall include the reasons for de-designation and notice of the **Department of Public Health and Human Services Fair Hearings Procedures**.

- ii) De-designation of a provider agency shall not become effective until all appeals are exhausted.
 - iii) The provider agency, AAA and the SLTCO shall provide for the continuation of ombudsman services (II-202.4, below).
 - iv) The AAA shall terminate its contract for LTCO services with the provider agency.
- b. Where a AAA serves as a provider agency, the process to de-designate the provider agency shall be as follows:
- i) The SLTCO shall send notice of the intent to de-designate at a specified date to the AAA. The notice shall include the reasons for de-designation and notice of the Hearing Procedures.
 - ii) De-designation of the AAA as a provider agency shall not become effective until all appeals are exhausted.
 - iii) The AAA and the SLTCO shall provide for the continuation of ombudsman services (II-202.4, below).
 - iv) The Office on Aging shall terminate the portion of the contract between the AAA and the Office on Aging which provides for ombudsman services.
- c. Where a provider agency contracts directly with the Office on Aging, the process to de-designate the provider agency shall be as follows:
- i) The SLTCO shall send notice of the intent to de-designate at a specified date to the provider agency. The notice shall include the reasons for de-designation and notice of the Hearing Procedures.
 - ii) De-designation of a provider agency shall not become effective until all appeals are exhausted.
 - iii) The provider agency and the SLTCO shall provide for the continuation of ombudsman services (II-202.4, below).
 - iv) The Office on Aging shall terminate its contract with the provider agency.

202.3 Voluntary withdrawal of a provider agency

A provider agency may voluntarily relinquish its designation by providing notice to the SLTCO and to the AAA in the relevant service area. Such notice shall be provided sixty (60) days in advance of the date of the relinquishment of designation.

202.4 Continuation of Ombudsman Services

Where a provider agency is in the process of appealing its de-designation or has relinquished designation:

- a. The provider agency and the SLTCO shall arrange for the provision of ombudsman services until a new provider agency is designated;

- b. The provider agency shall surrender intact to the SLTCO or the SLTCO designee all LTCO case records, documentation of all LTCO activities and complaint processing as required by the ombudsman reporting system, and identification cards/badges of all local LTCO associated with the provider agency;
- c. The provider agency shall, at the discretion of the Office on Aging, surrender any equipment purchased with funds designated for the LTCO services; and
- d. The provider agency shall surrender the balance of any advanced state or federal monies to the AAA, or to the Office on Aging where the AAA serves as the provider agency.

203. Designation of Long-Term Care Ombudsman

POLICY

The State Ombudsman designates individuals as ombudsmen to participate in the Long-term Care Ombudsman Program and to represent the Office of the State Long-term Care Ombudsman.

PROCEDURES

203.1 Criteria for designation as an ombudsman

To be designated as a LTCO, an individual must:

- a. be free of **unremedied** conflicts of interest (see II-400, below);
- b. meet the minimum qualifications for the applicable LTCO position;
- c. satisfactorily complete the applicable certification training requirements as specified in the Certification Requirements for Ombudsmen, (Appendix B)
- d. be awarded his or her certification card/identification badge, signed by the SLTCO;
- e. satisfactorily fulfill LTCO responsibilities (see II-305, below); and
- f. receive notice from the SLTCO of his or her renewed certification on an annual basis.

203.2 Minimum qualifications for Regional Ombudsmen

- a. In order to qualify as a Regional Ombudsman, an individual must have:
 - i) an undergraduate degree in nursing, social work, social sciences, psychology or other related field; and
 - ii) The equivalent of two (2) years of full-time work experience with at least one year in aging, long-term care or related fields. At least one year in a supervisory capacity is desirable.
- b. Comparable experience may be substituted at the discretion and agreement of the SLTCO and AAA Director. Graduate experience may be substituted for one year of experience.

203.3 Minimum qualifications for local ombudsmen

- a. In order to qualify for a LTCO staff position, an individual must have:
 - i) completed two years of undergraduate education; and
 - ii) two years of professional experience with at least one year in aging, long-term care or related fields.
- b. Comparable education and/or experience may be substituted at the discretion and agreement of the SLTCO and the provider agency.

203.4 Requests for substitutions or variances

Requests for substitutions or variances related to minimum requirements must be made in writing **to the SLTCO** and approved prior to the hiring or promotion of the employee in question.

203.5 Notification of designation

The SLTCO shall send written notification of an individual's designation as a LTCO to the individual being designated, and the provider agency in the relevant service area within thirty (30) days of the determination.

204. Refusal to Designate an Individual as a Long-term Care Ombudsman and De-designation of a Long-term Care Ombudsman

POLICY

The State Ombudsman may refuse to designate or may de-designate an individual as an ombudsman.

PROCEDURES

204.1 Criteria for refusal to designate an individual as an ombudsman and de-designation of an ombudsman

The SLTCO may refuse to designate an individual as an LTCO or may de-designate a LTCO for any of the following reasons:

- a. failure of the individual to meet and/or maintain the criteria for designation (II-203.1, above);
- b. existence of **unremedied** conflict of interest;
- c. deliberate failure of the individual to disclose any conflict of interest;
- d. violation of confidentiality requirements;
- e. failure to provide adequate and appropriate services to long-term care residents;
- f. falsifying records;
- g. failure to follow direction of the SLTCO **and provider agency** regarding LTCO policies, procedures and practices;

- h. a change in employment duties which is incompatible with LTCO duties;
- i. separation from the LTCOP. Examples include: removal from employment by provider agency, an extended absence of the LTCO preventing fulfillment of job responsibilities, provider agency's contract for provision of LTCO services is not renewed; or
- j. failure to act in accordance with applicable federal and state laws, regulation and policies.

204.2 Process for refusal to designate an individual as an ombudsman and de-designation of an ombudsman

- a. Prior to refusing to designate or de-designation, the SLTCO shall consult with the relevant provider agency to consider remedial actions which could be taken to avoid the refusal to designate or the de-designation.
- b. Refusal to designate

The SLTCO shall refuse to designate an individual as a LTCO by providing written notice of such refusal to **the individual**, provider agency and the Bureau Chief of the Office on Aging. Such notice shall:

 - i) specify the reasons for the refusal to designate, and
 - ii) set forth the effective date of such refusal.
- c. de-designation

Ohio

173-14-21 Initial designation of regional long-term care ombudsman programs: standards.

(A) No sponsoring agency shall serve as a regional long-term care ombudsman program unless it has been designated as such by the SLTCO.

(B) Except as otherwise provided in paragraph (A) of this rule, no sponsoring agency shall be fully designated as a regional program unless it has complied with all required structural standards. The required structural standards include the following:

(1) The sponsoring agency shall be a tax-exempt organization;

(2) The sponsoring agency shall have a governing board with responsibility to set policy for the regional program; provide ongoing leadership; ensure compliance with all program and contract requirements, all relevant federal and state statutes, regulations, and policies; and ensure program integrity and stability. A majority of the members on the sponsoring agency's governing board shall not have a conflict of interest;

(3) The sponsoring agency shall have available the consultative services of consumers and sponsors; medical professionals; legal service providers; pharmacists; providers; licensing authorities; protective service workers; law enforcement authorities; and representatives of public entitlement programs;

(4) No sponsoring agency, nor any member of its administrative staff, shall hold an unremedied conflict of interest;

(5) The sponsoring agency shall retain the number and type of staff required under rule 173-14-14 of the Administrative Code;

(6) The sponsoring agency shall maintain an incoming toll-free telephone line to be answered during normal business hours; and,

(7) The sponsoring agency shall have the capacity to develop policies and procedures that conform to all federal and state statutes, regulations, and policies. Within six months of designation, the sponsoring agency shall submit all such regional program policies and procedures to the SLTCO. The SLTCO shall review for approval all regional program policies and procedures. The sponsoring agency shall make all regional program policies and procedures available to all representatives in the regional program.

The regional program policies and procedures shall address the following:

(a) Complaint handling;

(b) Complaint prioritization;

(c) Case assignment;

(d) Access to and treatment of confidential written and electronic information, including, but not limited to, records and volunteer reports in accordance with rule 173-14-16 of the Administrative Code:

(i) Case-related electronic communication shall be kept to a minimum; and,

(ii) Cases shall be identified by case number and/or facility name to maintain client confidentiality.

(e) Recruiting, screening, training, and supervising volunteers;

(f) The conflict of interest screen for potential employees, representatives, and policy board members;

(g) Procedures for handling conflicts of interest that arise during the course of providing core ombudsman services;

(h) The types of information representatives of the office shall provide regarding long-term care.

(i) Handling complaints about representatives, including defining the types and levels of complaints that will be handled by the regional program/sponsoring agency or referred to the AAA, when appropriate, and the SLTCO; how the complaints will be investigated and resolved; and recommendations for decertification in accordance with rules 173-14-12 and 173-14-26 of the Administrative Code;

(j) Participation in the department of health survey and certification process, including performance within the federal regulations; balancing program priorities; specifying when to attend an exit conference; a statement of the information the ombudsman will give to the survey team; specifying that representatives with a noted conflict of interest may not participate in the certification process of that facility; and notification to the department of health district office of the program's policy;

(k) Personnel policies for representatives of the office; and,

(l) Fiscal management, including the use of accepted accounting practices; and maintaining an inventory of equipment purchased by funding source.

173-14-22 Initial designation of regional long-term care ombudsman programs: process.

The SLTCO shall not designate an agency as a new regional long-term care ombudsman program unless the agency has complied with all the required structural standards set forth in paragraph (B) of rule 173-14-21 of the Administrative Code, and has completed an ombudsman plan acceptable to the SLTCO. The SLTCO shall temporarily designate a new regional long-term care ombudsman program as needed.

(A) The SLTCO shall adhere to the following process when designating a sponsoring agency to serve as a new regional long-term care ombudsman program:

(1) The AAA with jurisdiction in the region to be served by the new program shall issue a request for proposal (RFP) seeking a sponsoring agency to serve as the regional long-term care ombudsman program. The RFP shall identify all requirements that a sponsoring agency must meet in order to be designated as a regional long-term care ombudsman program and shall request the submission within thirty days of an ombudsman plan and documents to support the sponsoring agency's claim to meet these requirements;

(2) The AAA shall conduct an on site on-site visit to each of the agencies responding to the RFP in order to verify the facts presented in each proposal;

(3) The AAA shall make a recommendation for designation to the SLTCO within thirty days of receiving the proposals;

(4) The SLTCO shall review the ombudsman plans of all proposals submitted to the AAA and shall choose the agency most appropriate to serve as the regional long-term care ombudsman program. When making a decision, the SLTCO shall take into consideration the recommendation of the AAA, but shall not be bound by that recommendation;

(5) The SLTCO shall notify the AAA of the decision within thirty days of receiving the recommendation from the AAA and shall notify the responding agencies of the decision within forty-five days. The SLTCO shall include in the notification the right of every agency not chosen to request a hearing to appeal the SLTCO's decision. The notice and hearing process shall follow the procedures set forth in Chapter 119. of the Revised Code; and,

(6) The SLTCO shall notify the agency of its designation year.

(B) If the AAA is the agency seeking designation or declines to participate in the designation process, the SLTCO shall perform those steps of the designation process outlined in paragraph (A) of this rule.

(C) Any sponsoring agency receiving full or provisional designation as a regional long-term care ombudsman program shall enter into a contract with the AAA or the SLTCO. At a minimum, the contract shall specify the following:

- (1) The geographical region to be served by the regional program;
- (2) A requirement that the regional program shall abide by all state and federal laws, regulations, policies and procedures governing the office of the SLTCO;
- (3) A requirement that the regional program shall abide by all department of aging policies and procedures relating to contractors; and,
- (4) A requirement that the regional program shall comply with all of the reporting requirements.

(D)

(1) The SLTCO shall develop a technical assistance plan (TAP) in conjunction with the full or provisional designation of each newly designated regional long-term care ombudsman program.

The TAP shall address areas of concern to the SLTCO and the regional program. In addition, the TAP shall specify actions to be taken by the regional program to correct problem areas or any violation of the law or the structural standards that are discovered during the initial designation process.

(2) When developing the TAP, the SLTCO shall seek input from the AAA with jurisdiction in the designated region and the sponsoring agency, where different from the AAA, and from the regional program, when appropriate.

(3) Once the TAP has been developed, any AAA or sponsoring agency involved in the designation process shall be given thirty days to comment in writing on the content of the TAP. If the AAA or the sponsoring agency does not comment in writing within thirty days, the TAP shall go into effect. If the AAA or the sponsoring agency does provide written comment within thirty days, the SLTCO shall work with the AAA and the sponsoring agency to produce a TAP within the next thirty days.

(4) The AAA and the SLTCO shall provide the technical assistance or contacts, or conduct the visits required under the terms of the TAP. At any time the SLTCO or AAA may request and shall receive assistance from the other in complying with the conditions of the TAP. If appropriate, the SLTCO may perform a program review to monitor the implementation of the TAP.

173-14-23 Development of ombudsman plans by all programs.

(A)

(1) Each regional program shall develop an ombudsman plan that describes short-term activities to cover one year and long-term activities on strategic areas to cover two years or more. Long-term

components shall address strategic program development, such as the future development of funding sources or the future direction of the program. The requirement to develop such an ombudsman plan may be waived by the SLTCO, as the SLTCO deems appropriate.

(2) The plan shall be approved by the SLTCO using the following criteria:

(a) Goals are useful, achievable, and in keeping with the core services and thrust of the SLTCO office's goals;

(b) Objectives are rational to the goals;

(c) Action steps will lead to achieving the stated objectives;

(d) Time lines are reasonable; and,

(e) Outcome standards are rational to the service, measurable, and quantified as much as possible.

(B) The ombudsman plans for regional programs seeking initial designation and for those programs deemed to be in need of additional oversight by the SLTCO shall address the following:

(1) Complaint handling, including, intake, screen, complaint investigation, complaint resolution, and follow-up activities;

(2) Providing a regular presence, including increasing awareness by consumers, sponsors, providers, social services, and the aging network of the program and its functions; and increasing the number of complaints received directly from consumers;

(3) Public education and information, including increasing awareness of the program and long-term care issues;

(4) Identifying systemic issues;, monitoring the development and implementation of policy by agencies that have an effect on the lives of consumers, coordinating and advocating with agencies and the legislature;, and documenting the progress of systemic reform;

(5) Representation at hearings and legal representation, including defining the types of hearings in which the regional program representatives will provide representation and developing how the regional program will ensure legal representation is provided to clients in other cases;

(6) Professional development and continuing education for representatives of the office, including assuring that volunteer representatives are able to pass the appropriate certification exam;, and developing a continuing education program targeted at the needs of representatives of the office;

(7) Recruitment, screening, retention, and supervision of volunteer representatives, including increasing the number of volunteer hours and increasing the capacity of volunteers to do such activities as complaint handling, establishing presence, observing and monitoring issues and providers, and providing information to the public;

(8) Fund raising, including identifying where additional resources are needed, and developing strategies for raising funds to meet those needs;

(9) Program administration, including developing the ombudsman plan; increasing the skills of administrative staff in such areas as fund-raising, accounting methods, performance appraisals, supervision of personnel, and similar administrative activity;

(10) Internal quality assurance process, including identifying problems in the delivery of core ombudsman services and developing objectives, action steps with time lines, and outcome standards for correcting the problems;

(11) Optional services, including defining those services delivered by the regional program that are not core services and developing goals, objectives, action steps with time lines, and outcome standards for measuring the success and impact of the services; and,

(12) Each provision under paragraph (A) of this rule.

173-14-24 Program review for continued designation.

(A) The SLTCO shall conduct an annual review to determine whether the regional program may continue its designation as a regional long-term care ombudsman program. In addition to the annual review, the SLTCO may conduct additional program reviews whenever service delivery problems occur within the region served by a regional program. The SLTCO shall make an on-site visit at least annually, whether in conjunction with the annual review or at another time.

The AAA having jurisdiction in the designated region may participate in the annual program review. Nothing in this rule shall prohibit the AAA from conducting a unit audit independent of the annual review, except that the AAA shall inform the SLTCO of the results of any such audit.

(B)

(1) When conducting any program review, the SLTCO shall review:

(a) The program's continued compliance with the structural standards set forth in paragraph (B) of rule 173-14-21 of the Administrative Code;

(b) The program's continued compliance with all state and federal laws, regulations, policies, and procedures governing the office of the SLTCO;

(c) The program's continued compliance with the requirements pertaining to the maintenance of program policies and procedures as set forth under paragraph (B)(7) of rule 173-14-21 of the Administrative Code;

(d) The program's complaint case records to determine the quality of the program's complaint-handling efforts and to determine whether the program is acting in accordance with the case handling protocol set forth in rule 173-14-16 of the Administrative Code;

(e) The program's attainment of the outcomes and objectives provided for under its current ombudsman plan;

(f) The program's ombudsman plan for the ensuing year of designation. The plan shall be prepared in accordance with paragraph (A) of rule 173-14-23 of the Administrative Code;

(g) The program's performance on quality measures established by the SLTCO with input from regional program directors; and,

(h) The program's advocacy and information service.

(2) In the event the AAA chooses to participate in the annual program review, the AAA shall take the lead in conducting the reviews required under paragraphs (B)(1)(a) to (B)(1)(c) of this rule and the SLTCO may be present and offer comments. The SLTCO shall take the lead in conducting the reviews required under paragraphs (B)(1)(d) to (B)(1)(f) of this rule and the AAA may be present and offer comments, except that the AAA may not be present or offer comments during the review provided for under paragraph (B)(1)(d) of this rule.

(3) During the on-site visit, the SLTCO or the AAA conducting the review shall have access to all necessary program administrative records and the SLTCO shall have access to all necessary complaint records. Program administrative records include, but are not limited to, governing board minutes; conflict of interest screenings; quality assurance documents; client satisfaction surveys; and professional development documents.

(4) When conducting reviews under paragraph (B)(1)(d) of this rule, the SLTCO shall review a minimum of fifteen cases, drawn from a random sampling of cases documented by the regional program. By January 1 of each year, the SLTCO, in consultation with directors of regional programs, shall determine standard case advocacy and general information selection criteria for the ensuing cycle of program reviews. The established criteria will apply to all regional programs.

(C) If appropriate, upon the completion of any program review the SLTCO shall develop a technical assistance plan (TAP) for the regional long-term care ombudsman program. The TAP shall be developed in accordance with paragraph (E) of rule 173-14-23 of the Administrative Code.

(D)

(1) Within fifteen business days of completing any program review, the SLTCO shall provide the regional program and the AAA having jurisdiction in the designated region with written notification of the results. The date of notification shall begin the new designation year.

(2) If the SLTCO withdraws the regional program's designation or grants the regional program only provisional designation status, the SLTCO and the AAA shall follow the notice and hearing requirements set forth in Chapter 119. of the Revised Code. The sponsoring agency may appeal the SLTCO's decision.

173-14-25 Changes in a regional program's designation status; notice rights; and hearing requirements.

(A)

(1) The SLTCO may change the designation of a fully designated regional program to a provisional designation, or he may withdraw the designation of a fully or provisionally designated regional program for cause. Cause shall include, but shall not be limited to, any of the following:

(a) The regional program's failure to follow policies and procedures that conform with sections 173.14 to 173.27 of the Revised Code, Chapter 173-14 of the Administrative Code, all relevant provisions of the Older Americans Act, or other related federal laws regulating the activities of the office;

(b) The regional program's failure to meet structural standards;

(c) The regional program's failure to provide services in accordance with sections 173.14 to 173.27 of the Revised Code, Chapter 173-14 of the Administrative Code, all relevant provisions of the Older Americans Act, other related federal laws, the policies and procedures of the office, the service contract, or an approved ombudsman plan;

(d) The development of an unremedied conflict of interest involving the regional program, its sponsoring agency, or an individual associated with either; or,

(e) The misfeasance, malfeasance, or nonfeasance of an employee of the program or a representative of the office.

(2) When provisionally designating a fully designated regional program, the SLTCO shall provide the regional program with notice of the decision to provisionally designate the program. The notice shall specify the changes or corrections necessary for the program to come into compliance with the program review standards or conflict of interest provisions, define the length of time the regional program will be given to come into compliance, and shall explain that failure to implement the requirements of the notice will lead to a withdrawal of designation. A regional program may appeal the SLTCO's decision to provisionally designate the program. The appeal shall be conducted in accordance with Chapter 119. of the Revised Code.

Any regional program on provisional designation shall provide the SLTCO with a written report of their progress on a monthly basis or as otherwise required and shall document that the required changes and corrections have been made. Once the required changes or corrections have been made, the SLTCO shall fully designate the regional program.

(3)

(a) The SLTCO may withdraw the designation of a regional program when the scope and severity of the cause is of such a nature that corrections are not likely to be successfully implemented. The SLTCO may presume such failures when any of the following occurs:

(i) The cause is found to involve a flagrant disregard of the office's policies and procedures, structural standards, or federal or state law;

(ii) The pattern of problems are repeated and correction is unlikely; or,

(iii) Attempted corrections of problems by the regional program have not been successful.

(b) The SLTCO shall give the regional program notice of the decision to withdraw the regional program's designation. The notice shall contain an explanation of the SLTCO's reason for the withdrawal of the designation. The sponsoring agency may appeal the SLTCO's decision in accordance with Chapter 119. of the Revised Code.

(B) A regional program may voluntarily withdraw its designation as a regional long-term care ombudsman program by providing the AAA with jurisdiction in the designated region and by providing the SLTCO with a written notice of its intent ninety days prior to the date upon which the program expects the withdrawal of designation to take place.

(C) The sponsoring agency of a regional program that voluntarily withdraws its designation or that has had its designation withdrawn by the SLTCO shall surrender intact to the SLTCO all ombudsman case records; documentation of all ombudsman activities required for the uniform statewide reporting system in accordance with paragraph (C) of rule 173-14-19 of the Administrative Code; the identification cards of all of its representatives; any equipment purchased with title III or title VII funds awarded under the Older Americans Act, the long-term care ombudsman state subsidy, bed fee monies; and the balance of any state, federal, or bed fee monies it has been allocated as a result of its designation as a regional ombudsman program on the effective date of the regional program's de-designation or voluntary withdrawal of designation, or as otherwise agreed to by the AAA, the regional program, and the SLTCO.

(D) When a regional program voluntarily withdraws its designation or has had its designation withdrawn, the contract required under paragraph (C) of rule 173-14-22 of the Administrative Code terminates effective with the effective date of the regional program's de-designation or its voluntary withdrawal of designation, except that the regional program and the SLTCO or the AAA shall remain responsible for complying with all policies, regulations, and statutes governing the office for activities undertaken prior to the termination of the contract.

(E) The SLTCO shall provide for or ensure the continuation of ombudsman services in any designated region where a regional program has voluntarily withdrawn its designation from the office or been de-designated.

(F)

(1) In all cases where the SLTCO seeks to deny the initial designation for a regional program, to provisionally designate a fully designated regional program, or to withdraw the designation of a provisionally designated or fully designed regional program, the SLTCO shall follow the notice and hearing procedures set forth in Chapter 119. of the Revised Code.

(2) Notice SLTCO shall give notice to the regional program's sponsoring agency. The notice shall be given by registered mail with a return receipt and shall include all of the following:

(a) The charges or other reasons for the proposed action;

(b) The law or rule directly involved in regard to the charges or reasons for the proposed action;

(c) A request that any explanation or extenuating circumstances connected to the SLTCO's decision be provided in writing to the SLTCO;

(d) A statement informing the sponsoring agency that the sponsoring agency is entitled to a hearing if it so requests such a hearing within thirty days after mailing the notice; and,

(e) A statement informing the sponsoring agency that, at the hearing, the sponsoring agency may be represented by its board, director, attorney, or other such representative as is permitted to practice before the agency; or, that the sponsoring agency may present its position, arguments, or contentions in writing; and, that the representative of the sponsoring agency may present evidence and examine witnesses appearing for and against the sponsoring agency at the hearing.

(3) Whenever a sponsoring agency requests a hearing in accordance with this rule, the SLTCO shall immediately set the date, time, and place of the hearing and forthwith notify the sponsoring agency thereof. The date set for the hearing shall be within fifteen days, but not earlier than seven days, after the sponsoring agency requested the hearing, unless otherwise agreed to by the department and the sponsoring agency.

Georgia

The Georgia Long-Term Care Ombudsman Program policies and procedures related to Designation and Withdrawal of Designation of Ombudsman Programs may be viewed [here](#).

Illinois

The Illinois Long-Term Care Ombudsman Program policies and procedures related to Designation and Withdrawal of Designation of Ombudsman Programs may be viewed [here](#).