

State agency responsibilities related to the Ombudsman Program (§ 1324.15)

**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](#).*

	Notes/Resources
The State Agency must:	
<ul style="list-style-type: none"> • Ensure the Ombudsman complies with the relevant provisions of the Act and rule 	
<ul style="list-style-type: none"> • Ensure (through development of policies, procedures, and other means) the SLTCOP has sufficient authority and access to facilities, residents, as well as information needed to perform all the duties and functions of the Office 	
<ul style="list-style-type: none"> • Provide opportunities for training for the Ombudsman and representatives of the office, and may use Title III and/or Title VII funds to provide access to training 	
<ul style="list-style-type: none"> • Provide personnel supervision and management for the SLTOC and representatives of the Office who are State Agency employees <ul style="list-style-type: none"> ○ Management includes assessment of whether the Office is performing all of its functions under the Act 	
<ul style="list-style-type: none"> • Provide monitoring, including fiscal monitoring, when the Office and/or local Ombudsman entity is located within another agency 	
<ul style="list-style-type: none"> • Integrate the goals and objectives of the office in the state plan and coordinate with the goals and objectives of the office with those of other programs 	
<ul style="list-style-type: none"> • Provide elder rights leadership 	
<ul style="list-style-type: none"> • Require the coordination of ombudsman program services with activities of other programs authorized by Title VII of the act and other State or local entities with responsibilities related to the care of older adults including residents of long term care facilities as set forth in §1324.13 (h). 	

<p>Interference, retaliation and reprisals</p> <p>The State Agency must:</p> <ul style="list-style-type: none"> • Ensure mechanisms exist to prohibit and investigate allegations of interference, retaliation and reprisals: <ul style="list-style-type: none"> ○ With respect to any resident, employee, or complainant ○ Against the Ombudsman or representative of the Office for fulfillment of the functions responsibilities or duties 	
<ul style="list-style-type: none"> • Provide appropriate sanctions 	
<p>Legal Counsel</p> <p>The State Agency must:</p> <ul style="list-style-type: none"> • Ensure that Legal Counsel for the Ombudsman is: <ul style="list-style-type: none"> ▪ Adequate, ▪ Available, and ▪ Has competencies relevant to the legal needs of the program and of its residents ▪ Is without conflict of interest ○ to provide consultation and representation for the Ombudsman program in order to protect the rights and welfare of residents; ○ to provide consultation and/or representation for the Ombudsman and representatives in the performance of their official functions, responsibilities and duties including complaint resolution and systems advocacy. 	
<ul style="list-style-type: none"> • The Ombudsman and representatives of the Office assist residents in seeking administrative, legal, and other appropriate remedies 	
<ul style="list-style-type: none"> • The Ombudsman must coordinate with the legal services developer, legal services providers and victim assistance services to promote the availability of legal counsel to residents. 	
<ul style="list-style-type: none"> • Legal representation, arranged by or with the approval of the Ombudsman, is provided to the Ombudsman or any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties. 	

<ul style="list-style-type: none"> • Legal counsel may be provided by one or more entities depending on the nature of the competencies and services needed and as necessary to avoid conflict of interest. 	
<ul style="list-style-type: none"> • At a minimum, the office must have access to an attorney knowledgeable about the federal and state laws protecting the rights of residents and governing long term care facilities. 	
<ul style="list-style-type: none"> • Legal representation of the Ombudsman program by the Ombudsman or representative of the Office who is a licensed attorney does not constitute adequate counsel. 	
<ul style="list-style-type: none"> • The communications between the Ombudsman and legal counsel are subject to attorney- client privilege. 	
<p>State Agency shall require the Office to:</p>	
<ul style="list-style-type: none"> • Develop and provide final approval of an annual report 	
<ul style="list-style-type: none"> • Analyze, comment on, and monitor the development of federal, state and local laws, regulations and other actions that pertain to LTC facilities, services, and welfare, health, safety and rights of residents in the state. 	
<ul style="list-style-type: none"> • Recommend any changes in such laws, regulations and policies as the Office determines to be appropriate. 	
<ul style="list-style-type: none"> • Provide information the Office determines to be necessary to public and private agencies, legislators, media and other persons regarding the problems and concerns of individuals residing in long-term care facilities and recommendations related to such problems 	
<ul style="list-style-type: none"> • Establish procedures for the training of the representative of the Office 	
<ul style="list-style-type: none"> • Coordinate Ombudsman program services with entities with responsibilities relevant to the health , safety, welfare, and rights of residents of long term care facilities 	