

# Long-Term Care Ombudsman Program Final Rule

Federal Register, Vol. 89, No. 31

updated February 14, 2024



The National Long-Term Care  
Ombudsman Resource Center

45 CFR §§ 1324.1 and 1324.17

**EDIT KEY: Deleted Text New Text**

§1324.1 Definitions	Notes
Immediate family, pertaining to conflicts of interest as used in section 712 of the <b>Older Americans Act (the Act) (42 U.S.C.3058g)</b> , means a member of the household or a relative with whom there is a close personal or significant financial relationship.	
Office of the State Long-Term Care Ombudsman, as used in sections 711 and 712 of the Act <b>(42 U.S.C. 3058f and 3058g)</b> , means the organizational unit in a State or <del>territory</del> <b>Territory</b> which is headed by a State Long-Term Care Ombudsman.	
<b>Official duties, as used in section 712 of the Act ( 42 U.S.C. 3058g) with respect to representatives of the Long-Term Care Ombudsman Program, means work pursuant to the Long-Term Care Ombudsman Program authorized by the Act, subpart A of this part, and/or State law and carried out under the auspices and general direction of, or by direct delegation from, the State Long-Term Care Ombudsman.</b>	
Representatives of the Office of the State Long-Term Care Ombudsman, as used in sections 711 and 712 of the Act <b>(42</b>	

**U.S.C. 3058f and 3058g**), means the employees or volunteers designated by the Ombudsman to fulfill the duties set forth in [§ 1324.19\(a\)](#), whether personnel supervision is provided by the Ombudsman or ~~his or her~~ **their** designees or by an agency hosting a local Ombudsman entity designated by the Ombudsman pursuant to section 712(a)(5) of the Act **(42 U.S.C. 3058g(a)(5))**.

Resident representative means any of the following:

- (1) An individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making; access **the resident's** medical, social, or other personal information ~~of the resident; manage ;~~ **manage the resident's** financial matters; or receive notifications **pertaining to the resident;**
- (2) A person authorized by State or Federal law (including but not limited to agents under power of attorney, representative payees, and other fiduciaries) to act on behalf of the resident in order to support the resident in decision-making; access **the resident's** medical, social or other personal information ~~of the resident ;~~ **manage the resident's** financial matters; or receive notifications **pertaining to the resident;**
- (3) Legal representative, as used in section 712 of the Act; ~~or~~ **(42 U.S.C. 3058g);**
- (4) The court-appointed guardian or conservator of a resident;
- (5) Nothing in this rule is intended to expand the scope of authority of any resident representative beyond that authority specifically authorized by the resident, State or Federal law, or a court of competent jurisdiction.

State Long-Term Care Ombudsman, or Ombudsman, as used in sections 711 and 712 of the Act **(42 U.S.C. 3058f and**

<p><b>3058g)</b>, means the individual who heads the Office and is responsible to personally, or through representatives of the Office, fulfill the functions, responsibilities and duties set forth in §§ 1324.13 and 1324.19.</p>	
<p>State Long-Term Care Ombudsman program, Ombudsman program, or program, as used in sections 711 and 712 of the Act <b>(42 U.S.C. 3058f and 3058g)</b>, means the program through which the functions and duties of the Office are carried out, consisting of the Ombudsman, the Office headed by the Ombudsman, and the representatives of the Office.</p>	
<p>Willful interference means actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the Ombudsman from performing any of the functions or responsibilities set forth in § 1324.13, or the Ombudsman or a representative of the Office from performing any of the duties set forth in § 1324.19.</p>	
<p><b>§1324.17 Responsibilities of agencies hosting local Ombudsman entities.</b></p>	
<p>(a) The agency in which a local Ombudsman entity is organizationally located shall be responsible for the personnel management, but not the programmatic oversight, of representatives, including employee and volunteer representatives, of the Office.</p> <p>(b) The agency in which a local Ombudsman entity is organizationally located shall not have personnel policies or practices which prohibit the representatives of the Office from performing the duties, or from adhering to the access, confidentiality, and disclosure requirements of section 712 of the Act <b>(42 U.S.C. 3058g)</b>, as implemented through this rule and the policies and procedures of the Office.</p>	

- (1) Policies, procedures, and practices, including personnel management practices of the host agency, which the Ombudsman determines conflict with the laws or policies governing the Ombudsman program shall be sufficient grounds for the refusal, suspension, or removal of the designation of local Ombudsman entity by the Ombudsman.
- (2) Nothing in this provision shall prohibit the host agency from requiring that the representatives of the Office adhere to the personnel policies and procedures of the agency which are otherwise lawful.



[www.ltombudsman.org](http://www.ltombudsman.org) | [ombudcenter@theconsumervoice.org](mailto:ombudcenter@theconsumervoice.org)

*This project was supported by the Administration for Community Living (ACL), U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$516,407 with 100 percent funding by ACL/HHS. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by ACL/HHS or the U.S. Government.*