



LTCOP Organizational Conflicts of Interest – Examples of Identification, Remedies, and Removal *Office of the State Long-Term Care Ombudsman (OSLTCO)*

Disclaimer: This list not inclusive and use of one or more of these remedies does not guarantee compliance by an individual program. Sufficient remedies are those that preserve loyalty (judgment and objectivity, financial issues), commitment (time & attention, adequacy of resources), control (independence & ability to take action), and perception of the LTCOP. Visit the NORC website for more information.¹
State Offices and Local Ombudsman Entities must have a policy and procedure in place to screen and identify conflicts.

Key of Acronyms & Abbreviations

COI = Conflict of Interest	CFR = Code of Federal Regulations
LOE = Local Ombudsman Entity	LTCO = Long-Term Care Ombudsman
LTCOP = Long-Term Care Ombudsman Program	MOU = Memorandum of Understanding
OSLTCO = Office of the State Long-Term Care Ombudsman	P&P = Policies & Procedures
SLTCO = State Long-Term Care Ombudsman	

Additional Resources

[LTCOP Rule Issue Brief: State LTC Ombudsman Program Organizational Level Conflict of Interest](#)

[LTCOP Rule Issue Brief: Local Ombudsman Entity Organizational Level Conflict of Interest](#)

[Side-by-Side of the LTCOP Final Rule and Pertinent Preamble Language](#)

¹ Additional information about the LTCOP Rule and conflicts of interest are available on the NORC website: http://ltcombudsman.org/library/fed_laws/ltcop-final-rule and http://ltcombudsman.org/omb_support/pm/ethics.

Conflict of Interest	Examples of Identification	Examples of Remedy or Removal
<p>1 Is responsible for licensing, surveying, or certifying long-term care facilities (CFR 1324.21(a)(1))</p>	<p>CFR PROHIBITS - No Remedy, only Removal</p> <ul style="list-style-type: none"> Licenses, surveys, or certifies long-term care facilities, including nursing homes, Assisted Living, Adult Foster/Family Care, or other board & care facilities Makes recommendations to another agency about licenses, surveys, or certifications (NOTE: It is not automatically a prohibited conflict if the entity that houses the OSLTCO makes recommendations, but is not the final decision-making entity. In such cases, the OSLTCO should identify this conflict and implement appropriate remedy and/or removal.) 	<p>CFR PROHIBITS - No Remedy, only Removal</p> <ul style="list-style-type: none"> Move licensing, certifying, or surveying functions to another agency or division Move OSLTCO
<p>2 Is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities ((OAA Sec. 712(f)(2)(A)(ii)) and (CFR 1324.21(a)(2)); NOTE: OAA citation does not have “or individuals with disabilities”)</p>	<p>CFR PROHIBITS – No Remedy, only Removal</p> <ul style="list-style-type: none"> Facility associations, such as state affiliate of the for-profit nursing facility association (American Health Care Association); or the non-profit, Leading Age, for example. 	<p>CFR PROHIBITS - No Remedy, only Removal</p> <ul style="list-style-type: none"> Move OSLTCO Move association or affiliate of long term care facilities out of the organization
<p>3 Has any ownership or investment interest (represented by equity, debt, or other financial relationship) in, or receives grants or donations from, a long-term care facility (CFR 1324.21(a)(3))</p>	<ul style="list-style-type: none"> Operates a long-term care facility, such as a state nursing home (NOTE: It is not automatically a prohibited conflict if a state owns a nursing home, if operation of the nursing home rests with a different entity than the entity that houses the OSLTCO (e.g., State Department of Health operates a nursing home and the OSLTCO is placed within the State Department of Human Services) and the State can demonstrate that the entity that houses the OSLTCO has no claim to ownership or investment interest. In such cases, the OSLTCO should identify this as a 	<p>CFR PROHIBITS - No Remedy, only Removal</p> <ul style="list-style-type: none"> Owns, has investment interest or operates a long-term care facility, such as a state nursing home <ul style="list-style-type: none"> Divest any ownership or investment interest Move OSLTCO <p>May be remedied, not an absolute prohibition</p> <ul style="list-style-type: none"> Receives grants, donations, or sponsorships from a long-term care facility for a program, conference, event, or other purpose <ul style="list-style-type: none"> Cease/return grants or donations

		<p>potential conflict, provide explanation as to why it does/does not meet the standard for a prohibited conflict, and implement appropriate remedy and/or removal.)</p> <ul style="list-style-type: none"> • Receives grants, donations, or sponsorships from a long-term care facility for a program, conference, event, or other purpose. • NOTE: Other financial relationship may include where SUA contracts with a nursing home for respite services. This should be identified as outlined in #7. This would not be a prohibited conflict, as the SUA is purchasing a service, but it is not an ownership or investment interest and no funds are received from the nursing home. 	<ul style="list-style-type: none"> ○ Develop clear policies & procedures and review on a periodic (e.g., semi-annual, annual) basis ○ These grants/donations are handled by a different unit of the agency from where the Office is placed ○ These grants/donations are for non-Ombudsman programs and activities
4	Is responsible for licensing, certifying, or surveying long-term care services in the State (OAA Sec. 712(f)(2)(A)(i))	<ul style="list-style-type: none"> • Licenses, surveys, or certifies long-term care services, such as adult day service, home-delivered meals or transportation, whether funded by Medicaid waivers, OAA, state revenue, or other funding sources • Monitors long-term care service providers (NOTE: ACL anticipates that all OSLTCO that are placed in State Units on Aging will report this as a conflict due to SUA roles in monitoring long-term care service providers, including AAAs who provide direct services.) 	<ul style="list-style-type: none"> • SLTCO does not report to person directly responsible for these functions • SLTCO is in a different management reporting chain • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • Move OSLTCO • Move these functions to another agency or division
5	Has governing board members with any ownership, investment or employment interest in long-term care facilities (CFR 1324.21(a)(4))	<ul style="list-style-type: none"> • Board members (state names and/or number of members identified) have an ownership, investment, or employment interest in a long-term care facility or facilities 	<ul style="list-style-type: none"> • Require board members with COI to resign or recuse themselves from any decisions, both programmatic and budgetary, regarding the LTCOP • OSLTCO monitors and reviews meeting minutes and financial statements to ensure compliance • Monitor complaint activity of board member facilities

			<ul style="list-style-type: none"> • Move OSLTCO
6	Provides long-term care to residents of long-term care facilities, including the provision of personnel for long-term care facilities or the operation of programs which control access to or services for long-term care facilities (CFR 1324.21(a)(5))	<ul style="list-style-type: none"> • Conducts/administers nursing home pre-admission screening programs, including determining level of care • Administers the Pre-Admission Screening and Resident Review (PASSRR) program 	<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • Move OSLTCO • Move these functions to another agency or division
7	Provides long-term care services, including programs carried out under a Medicaid waiver approved under section 1115 of the Social Security Act (42 U.S.C. 1315) or under subsection (b) or (c) of section 1915 of the Social Security Act (42 U.S.C. 1396n), or under a Medicaid State plan amendment under subsection (i), (j), or (k) of section 1915 of the Social Security Act (42 U.S.C. 1396n) (OAA Sec. 712(f)(2)(A)(iii))	<ul style="list-style-type: none"> • Funds, administers, monitors, and/or directly provides long-term care services, such as adult day service, respite (including respite provided in a nursing home, assisted living, or other facility), home-delivered meals or transportation, whether funded by Medicaid waivers, OAA, state revenue, or other funding sources (NOTE: ACL anticipates that all OSLTCO that are placed in State Units on Aging will report this as a conflict due to SUA roles in providing long-term care services under the Older Americans Act and/or other funding sources.) 	<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • LTCOP is located in a different building or separate office only accessible to LTCOP staff • Move OSLTCO • Move these functions to another agency or division

8	Provides long-term care case management (OAA Sec. 712(f)(2)(A)(iv))	<ul style="list-style-type: none"> Funds, administers, monitors, and/or directly provides long-term care case management (NOTE: ACL anticipates that most, if not all, OSLTCO that are placed in State Units on Aging will report this as a conflict due to SUA roles in providing long-term care case management under the Older Americans Act and/or other funding sources.) 	<ul style="list-style-type: none"> SLTCO is in a different management reporting chain SLTCO does not report to person directly responsible for these functions These functions are handled by a different unit of the agency from where the Office is placed MOU/P&P outlines OSLTCO separation from these functions Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records OSLTCO is in a different building or separate office only accessible to OSLTCO staff Move OSLTCO Move these functions to another agency or division
9	Provides long-term care coordination or case management for residents of long-term care facilities (CFR 1324.21(a)(6))	<ul style="list-style-type: none"> Funds, administers, monitors, and/or directly provides long-term care case management (NOTE: ACL anticipates that OSLTCO that are placed in State Units on Aging which administer a Medicaid waiver program covering Assisted Living , or similar residential settings, will report this as a conflict) 	<ul style="list-style-type: none"> SLTCO does not report to person directly responsible for these functions SLTCO is in a different management reporting chain These functions are handled by a different unit of the agency from where the Office is placed MOU/P&P outlines OSLTCO separation from these functions Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records OSLTCO is located in a different building or separate office only accessible to OSLTCO staff Move OSLTCO Move these functions to another agency or division

10	Sets reimbursement rates for long- term care facilities (CFR 1324.21(a)(7))	<ul style="list-style-type: none"> • Sets reimbursement rates, and/or implements rates set by state legislature, Medicaid, or other department (NOTE: ACL anticipates that OSLTCO that are placed in State Units on Aging which administer a Medicaid waiver program covering Assisted Living, or similar residential settings, will report this as a conflict) • Sets reimbursement rates for respite services delivered in long-term care facilities (ACL anticipates that OSLTCO that are placed in State Units on Aging which deliver OAA-funded respite in long-term care facilities will report this as a conflict) 	<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • OSLTCO is located in a different building or separate office only accessible to OSLTCO staff • Move OSLTCO • Move these functions to another agency or division
11	Sets rates for long-term care services (OAA Sec. 712(f)(2)(A)(v))	<ul style="list-style-type: none"> • Sets reimbursement rates, and/or implements rates set by state legislature, Medicaid, or other department for long-term care services, such as adult day service, home-delivered meals or transportation, whether funded by Medicaid waivers, OAA, state revenue, or other funding sources (NOTE: ACL anticipates that all OSLTCO that are placed in State Units on Aging will report this as a conflict due to SUA roles in providing long-term care services under the Older Americans Act and/or other funding sources.) 	<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • OSLTCO is located in a different building or separate office only accessible to OSLTCO staff • Move OSLTCO • Move these functions to another agency or division

12	Provides adult protective services (OAA Sec. 712(f)(2)(A)(vi) & (CFR 1324.21(a)(8)))	<ul style="list-style-type: none"> • A social services program provided by state and/or local governments serving older adults and adults with disabilities who need assistance because of abuse, neglect, self-neglect, or financial exploitation. • Example: SUA has a single state planning and service area and an Elder Protective Services Unit provides adult protective services for persons 60 years old and older who may experience abandonment, abuse, neglect, exploitation, or isolation. 	<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • OSLTCO is located in a different building or separate office only accessible to OSLTCO staff • Move OSLTCO • Move these functions to another agency or division
13	Is responsible for eligibility determinations for the Medicaid program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (OAA Sec. 712(f)(2)(A)(vii))	<ul style="list-style-type: none"> • Funds, administers, monitors, and/or directly determines eligibility for Medicaid programs, including conducting functional eligibility assessments for Medicaid waiver programs and/or nursing home level of care determinations (NOTE: ACL anticipates that OSLTCO that are placed in State Units on Aging which administer a Medicaid waiver program or any nursing home prescreening programs will report this as a conflict) • Conducts/administers nursing home pre-admission screening programs, including determining level of care • Administers the Pre-Admission Screening and Resident Review (PASSRR) program 	<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • OSLTCO is located in a different building or separate office only accessible to OSLTCO staff • Move OSLTCO • Move these functions to another agency or division

14	Is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities (CFR 1324.21(a)(9))	<ul style="list-style-type: none"> • Funds, administers, monitors, and/or directly determines or collects information regarding eligibility for Medicaid programs or other public benefits programs for residents of long-term care facilities, including conducting functional and/or financial eligibility assessments for nursing home level of care determinations, Medicaid waiver programs that cover Assisted Living, and residential state supplement programs (NOTE: ACL anticipates that OSLTCO that are placed in State Units on Aging which administer a Medicaid waiver program or any nursing home prescreening programs will report this as a conflict) • Conducts/administers nursing home pre-admission screening programs, including determining level of care • Administers the Pre-Admission Screening and Resident Review (PASSRR) program 	<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • OSLTCO is located in a different building or separate office only accessible to OSLTCO staff • Move OSLTCO • Move these functions to another agency or division
15	Conducts preadmission screening for placements in facilities described in clause (ii) (OAA Sec. 712(f)(2)(A)(viii); CFR 1324.21(a)(10) language has essentially the same meaning)	<ul style="list-style-type: none"> • Funds, administers, monitors, and/or directly conducts preadmission screening (NOTE: ACL anticipates that OSLTCO that are placed in State Units on Aging which administer a Medicaid waiver program or any nursing home prescreening programs will report this as a conflict) • Conducts/administers nursing home pre-admission screening programs, including determining level of care • Administers the Pre-Admission Screening and Resident Review (PASSRR) program 	<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Move OSLTCO • Move these functions to another agency or division
16	Makes decisions regarding admission or discharge of individuals to or from such facilities (OAA Sec. 712(f)(2)(A)(ix); CFR	<ul style="list-style-type: none"> • Funds, administers, monitors, and/or directly conducts or gathers information for functional and/or financial eligibility assessments for nursing home level of care determinations and Medicaid waiver programs that cover Assisted Living (NOTE: ACL 	<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed

	1324.21(a)(11) language has essentially the same meaning)	<p>anticipates that OSLTCO that are placed in State Units on Aging which administer a Medicaid waiver program or any nursing home prescreening programs will report this as a conflict)</p> <ul style="list-style-type: none"> • Conducts/administers nursing home pre-admission screening programs, including determining level of care • Administers the Pre-Admission Screening and Resident Review (PASSRR) program 	<ul style="list-style-type: none"> • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • OSLTCO is located in a different building or separate office only accessible to OSLTCO staff • Move OSLTCO • Move these functions to another agency or division
17	Provides guardianship, conservatorship or other fiduciary or surrogate decision-making services for residents of long-term care facilities (CFR 1324.21(a)(12))	<ul style="list-style-type: none"> • Provides guardianship, conservatorship, money management / bill paying services 	<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • OSLTCO is located in a different building or separate office only accessible to OSLTCO staff • Move OSLTCO • Move these functions to another agency or division

We also encourage *States* to identify organizational conflicts of interest and steps taken to remedy or remove these conflicts regarding:

Conflict of Interest	Examples of Identification	Examples of Remedy or Removal
<p>Any other service (e.g., <i>Name of Service</i>) provided by the agency that could pose a potential or actual conflict of interest, including other work done by SLTCO or OSLTCO employees</p>		<ul style="list-style-type: none"> • SLTCO is in a different management reporting chain • SLTCO does not report to person directly responsible for these functions • These functions are handled by a different unit of the agency from where the Office is placed • MOU/P&P outlines OSLTCO separation from these functions • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed • Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records • OSLTCO is located in a different building or separate office only accessible to OSLTCO staff • Move these functions to another agency or division
<p>Any other perceived or actual conflicts of interest from the resident / consumer / general public perspective with the Office of the SLTCO</p>	<ul style="list-style-type: none"> • LTCOP webpage is posted under a department/division without remedied/removed conflicts and/or that does not align with its organizational placement • Lack of separate branding, including materials and on-line presence, to distinguish OSLTCO from other programs of agency where placed 	<ul style="list-style-type: none"> • OSLTCO on-line and print materials explain independence of Office • OSLTCO has dedicated phone number, fax number, and email address • OSLTCO conducts periodic customer satisfaction survey • State’s Aging Advisory Board/Commission solicits customer feedback • Ombudsman includes statement that participation is advisory only & dissenting LTCO viewpoints regarding the Board/Committee’s actions are documented

<p>Where there is a shared “front door” to the agency where the OSTLCO is located, how the agency determines where to direct calls, emails, or other contacts that come in to the agency</p>	<ul style="list-style-type: none"> • Shared “front door” for phone calls, emails, and/or other contacts that come to the OSLTCO 	<ul style="list-style-type: none"> • Policy that when call/email indicates concern with LTC facility, call/email/walk-in is given option of which program(s) to contact • Direct number/email to LTCOP also provided • Separate branding, including materials and on-line presence, distinguishes OSLTCO from other programs of agency where placed
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