



## LTCOP Organizational Conflicts of Interest – Examples of Remedies & Removal *Local Ombudsman Entities (LOEs)*

**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.<sup>1</sup>

State Offices and Local Ombudsman Entities must have a policy and procedure in place to screen and identify conflicts.

### Key of Acronyms & Abbreviations

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

### Additional Resources

#### LTCOP Rule Issue Brief: State LTC Ombudsman Program Organizational Level Conflict of Interest

[http://ltcombudsman.org/uploads/files/library/LTCOP\\_Rule\\_Issue\\_Brief\\_-\\_SLTCOP\\_ORG\\_COI\\_-\\_FINAL\\_\(1\)\\_re-numbered.pdf](http://ltcombudsman.org/uploads/files/library/LTCOP_Rule_Issue_Brief_-_SLTCOP_ORG_COI_-_FINAL_(1)_re-numbered.pdf)

#### LTCOP Rule Issue Brief: Local Ombudsman Entity Organizational Level Conflict of Interest

[http://ltcombudsman.org/uploads/files/library/LTCOP\\_Rule\\_Issue\\_Brief\\_-\\_SLTCOP\\_ORG\\_COI\\_-\\_FINAL\\_\(1\)\\_re\\_numbered.pdf](http://ltcombudsman.org/uploads/files/library/LTCOP_Rule_Issue_Brief_-_SLTCOP_ORG_COI_-_FINAL_(1)_re_numbered.pdf)

#### Side-by-Side of the LTCOP Final Rule and Pertinent Preamble Language

[http://ltcombudsman.org/uploads/files/library/LTCOP\\_FINAL\\_Regulations\\_Chart\\_w\\_Preamble\\_FINAL\\_w\\_tech\\_chng-renumbered.pdf](http://ltcombudsman.org/uploads/files/library/LTCOP_FINAL_Regulations_Chart_w_Preamble_FINAL_w_tech_chng-renumbered.pdf)

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<sup>1</sup> 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](http://ltcombudsman.org/library/fed_laws/ltcop-final-rule) and [http://ltcombudsman.org/omb\\_support/pm/ethics](http://ltcombudsman.org/omb_support/pm/ethics).

Conflict of Interest		Examples of Remedy or Removal
1	Is responsible for licensing, surveying, or certifying long-term care facilities (CFR 1324.21(a)(1))	<b>CFR PROHIBITS - No Remedy, only Removal</b> <ul style="list-style-type: none"> <li>• Move LTCOP</li> <li>• Move licensing, certifying, or surveying functions to another agency or division</li> </ul>
2	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"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the LTCOP is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to OSLTCO database, information and other records</li> <li>• OSLTCO is located in a different building or separate office only accessible to OSLTCO staff</li> <li>• Move LOE to another agency</li> <li>• Move organization responsible for licensing and survey</li> </ul>
3	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”)	<b>CFR PROHIBITS - No Remedy, only Removal</b> <ul style="list-style-type: none"> <li>• Move LOE to another agency</li> <li>• Move association or affiliate of LTC facilities out of the organization</li> </ul>
4	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))	<ul style="list-style-type: none"> <li>• Divest any ownership or investment interest</li> <li>• Cease/return grants or donations</li> <li>• Develop clear policies &amp; procedures and review on a periodic (e.g., semi-annual, annual) basis</li> <li>• Move LOE to another agency</li> </ul>

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"> <li>• Require board members with COI to resign or recuse themselves from any decisions both programmatic and budgetary regarding the LTCOP</li> <li>• OSLTCO monitors and reviews meeting minutes and financial statements to ensure compliance</li> <li>• Monitor complaint activity of board member facilities</li> <li>• Move LOE to another agency</li> </ul>
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"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>
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"> <li>• LOE in a different management reporting chain Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>
8	Provides long-term care case management (OAA Sec. 712(f)(2)(A)(iv))	<ul style="list-style-type: none"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> </ul>

		<ul style="list-style-type: none"> <li>• Move LOE to another agency</li> </ul>
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"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>
10	Sets reimbursement rates for long-term care facilities (CFR 1324.21(a)(7))	<ul style="list-style-type: none"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>
11	Sets rates for long-term care services (OAA Sec. 712(f)(2)(A)(v))	<ul style="list-style-type: none"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>

12	Provides adult protective services (OAA Sec. 712(f)(2)(A)(vi) & (CFR 1324.21(a)(8)))	<ul style="list-style-type: none"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>
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"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>
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"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>
15	Conducts preadmission screening for placements in facilities described in clause (ii) (OAA Sec. 712(f)(2)(A)(viii);	<ul style="list-style-type: none"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> </ul>

	CFR 1324.21(a)(10) language has essentially the same meaning)	<ul style="list-style-type: none"> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>
16	Makes decisions regarding admission or discharge of individuals to or from such facilities (OAA Sec. 712(f)(2)(A)(ix); CFR 1324.21(a)(11) language has essentially the same meaning)	<ul style="list-style-type: none"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>
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"> <li>• LOE in a different management reporting chain</li> <li>• Representatives of the Office do not report to person directly responsible for these functions</li> <li>• These functions are handled by a different unit of the agency from where the Office is placed</li> <li>• MOU/P&amp;P outlines LTCOP separation from these functions</li> <li>• Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>• Separate phones, fax lines and clearly defined limits regarding access to LTCOP database, information and other records</li> <li>• LTCOP is located in a different building or separate office only accessible to LTCOP staff</li> <li>• Move these functions to another agency or division</li> <li>• Move LOE to another agency</li> </ul>

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

<ul style="list-style-type: none"> <li>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 LTCOP employees</li> </ul>		<ul style="list-style-type: none"> <li>LOE in a different management reporting chain</li> <li>Representatives of the Office do not report to person directly responsible for these functions</li> <li>These functions are handled by a different unit of the agency from where the LTCO is placed</li> <li>MOU/P&amp;P outlines LTCO separation from these functions</li> <li>LTCO has staff assigned to these programs and programs contribute to, and do not detract from, LTCOP work</li> <li>Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> <li>Contract with SLTCO requires prior approval for LTCOs to work on other programs or initiatives</li> <li>Included in assurances with SLTCO, annual organizational disclosure statement with proposed remedies submitted to and approved by SLTCO, and reviewed in annual monitoring</li> <li>Move these functions to another agency or division</li> <li>Move LOE to another agency</li> </ul>
<ul style="list-style-type: none"> <li>Any other perceived or actual conflicts of interest from the resident / consumer / general public perspective with the LTCOP</li> </ul>		<ul style="list-style-type: none"> <li>LTCOP on-line and print materials explain independence of Office</li> <li>LTCOP has dedicated phone number, fax number, and email address</li> <li>LTCOP conducts periodic customer satisfaction survey</li> <li>LOE's Aging Advisory Board/Commission solicits customer feedback</li> <li>Ombudsman includes statement that participation is advisory only &amp; dissenting LTCO viewpoints regarding the Board/Committee's actions are documented</li> <li>Included in assurances with SLTCO, annual organizational disclosure statement with proposed remedies submitted to and approved by SLTCO, and reviewed in annual monitoring</li> </ul>
<ul style="list-style-type: none"> <li>Where there is a shared "front door" to the agency where the LTCOP is located, how the agency determines where to direct calls, emails, or other contacts that come in to the agency</li> </ul>		<ul style="list-style-type: none"> <li>Policy that when call/email indicates concern with LTC facility, call/email/walk-in is given option of which program(s) to contact</li> <li>Direct number/email to LTCOP also provided</li> <li>Disclosure (with option to contact SLTCO) provided to contacts who are have complaints regarding services also provided by the LOE</li> <li>Separate branding, including materials and on-line presence, distinguishes LTCOP from LOE</li> </ul>

This project was supported, in part, by grant number 900M002, from the U.S. Administration for Community Living, Department of Health and Human Services, Washington, D.C. 20201. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official Administration for Community Living policy.