



LTCOP Organizational Conflicts of Interest – Examples of Remedies & 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

CFR = Code of Federal Regulations
COI = Conflict of Interest
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

[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

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 Remedy or Removal
1	Is responsible for licensing, surveying, or certifying long-term care facilities (CFR 1324.21(a)(1))	<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
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"> • 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
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”)	<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
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))	<p>CFR PROHIBITS - No Remedy, only Removal</p> <ul style="list-style-type: none"> • Divest any ownership or investment interest • Cease/return grants or donations • Develop clear policies & procedures and review on a periodic (e.g., semi-annual, annual) basis • Move OSLTCO
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"> • 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 • 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"> • 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"> • 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"> • 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

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"> • 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"> • 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"> • 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"> • 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"> • 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"> • 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"> • 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 1324.21(a)(11) language has essentially the same meaning)	<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
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"> • 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:

<ul style="list-style-type: none"> 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 		<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
<ul style="list-style-type: none"> Any other perceived or actual conflicts of interest from the resident / consumer / general public perspective with the Office of the SLTCO 		<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
<ul style="list-style-type: none"> 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 		<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

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.