

**Excerpted from the Louisiana Administrative Procedures Act**

**' 1229. OFFICE OF THE STATE LONG TERM CARE OMBUDSMAN**

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1. Program Structure

1. State Level

1. The Governor's Office of Elderly Affairs (GOEA) shall operate an Office of the State Long Term Care Ombudsman and shall carry out through the Office a long term care ombudsman program which provides a State Ombudsman who will, on a full-time basis, carry out such activities as necessary to perform the functions of the ombudsman program specified in §1229.C.
2. Other staff may be added as necessary to implement the program. Specific program functions may be contracted.
3. The Office and its representatives shall be free from any conflicts of interest which might compromise the program's efforts to investigate impartially and resolve complaints.

2. Sub-state level

1. Designation of Local Ombudsman Entities

- (1) The State Long Term Care Ombudsman shall designate as local ombudsman entities public or private non-profit agencies or organizations which have the capacity to perform the duties set forth in §1229.D.2.c.
- (2) The State Long Term Care Ombudsman shall not designate as a local ombudsman entity any agency or organization for which such designation would create a conflict of interest.
- (3) GOEA shall contract with agencies or organizations designated by the State Long Term Care Ombudsman to operate the State's ombudsman program at the sub-state level.
- (4) The contract between GOEA and the local ombudsman entity shall

specify the service area covered by the local ombudsman entity and the responsibilities of each party. It shall contain assurances regarding the performance of the local ombudsman entity and provisions for termination of designation.

- (5) A local ombudsman entity which cannot meet all designation requirements or which is experiencing substantial problems may be granted a provisional designation, provided that the local ombudsman entity has provided a plan for corrective action, acceptable to the State Long Term Care Ombudsman, including a timetable for meeting requirements.
  - (6) Designations of local ombudsman entities shall be renewed annually. If a designated local ombudsman entity wishes to be considered for renewal, it shall provide written notice to the State Long Term Care Ombudsman at least 90 days prior to the end of the contract year.
  - (7) The State Long Term Care Ombudsman may de-designate a local ombudsman entity or terminate a designation for cause. The terms and conditions for this procedure shall be included in the contract with the local ombudsman entity.
2. The State Ombudsman shall designate each local ombudsman entity. Any representative (as defined in Louisiana R.S. 40:2010.1) of an entity so designated (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this Section.
  3. At a minimum, each local ombudsman entity shall:
    - (1) employ or contract with a certified ombudsman who shall be paid to serve as an ombudsman coordinator for all facilities within the service area.
    - (2) submit for approval by the State Long Term Care Ombudsman a written plan of visitation which provides for regular visitation to each facility in the service area by program personnel. Every facility must be visited by a certified ombudsman at least once per month, except that skilled nursing facilities located in hospitals and rehabilitations centers not otherwise licensed as long-term care facilities must be visited a minimum of once every six months and adult residential care homes must be visited at least quarterly unless conditions warrant more

frequent visitation. The plan of visitation shall be incorporated into the contract with GOEA.

- (3) investigate, record, and resolve problems and complaints;
  - (4) record and report information on complaints and observed problems;
  - (5) advertise the existence and function of the designated local entity and the Office; and
  - (6) advise the public about, or arrange for the availability of, current State, local, and federal inspection reports, statements of deficiency, and plans for correction for individual long term care facilities in the service area.
4. The amount of funds to be allocated for each designated local ombudsman entity shall be determined by GOEA.
  5. Program personnel at the designated local level are:
    - (1) Ombudsman Coordinator;
    - (2) Ombudsman; and
    - (3) Long Term Care Visitor.
  6. No person shall use the title "Ombudsman" or "Ombudsman Coordinator", or investigate any complaint filed with the Office unless the individual has completed and maintained certification.
  7. No person shall use the title "Long Term Care Visitor" unless he has completed orientation training and fulfills the responsibilities in §1229.E.4.b.

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## 2. Ombudsman Certification

1. Definition. *Certification* is the mechanism whereby the Office delegates the functions and responsibilities stated in Louisiana R.S. 40:2010.0 through 40:2010.5 to local program representatives.
2. Certification Process

1. Upon successful completion of the certification program, a trainee will become a certified ombudsman. The State Ombudsman shall notify the trainee in writing and shall issue an identification card. A copy of the letter shall be sent to the designated local ombudsman entity and the AAA.
2. The ombudsman shall be assigned to a long term care facility(ies) by the State Ombudsman after consultation with the ombudsman, and the ombudsman coordinator. The administrator of the long term care facility where the ombudsman is assigned shall be so informed by the State Ombudsman.
3. Individuals certified by nursing home ombudsman programs in other states can request the State Ombudsman to consider their previous experience. The individual must submit a letter from the State Ombudsman which describes the training program and verifies that the individual left the program in good standing. The individual will need to attend certification training on these topics: regulatory system; rights of nursing home residents; Medicaid; complaint investigation and resolution; and ombudsman policies and procedures. To complete Louisiana's certification requirements, the individual must pass the examination.

### 3. Training

1. Individuals shall be certified as ombudsmen upon successful completion of the ombudsman certification training program. The training program consists of four components: an orientation program, a twenty-six hour training program, an examination, and an internship in a long term care facility. The State Ombudsman or his designee shall conduct the certification program. Trainees must meet the minimum personnel qualifications specified in Subsection 1229(E)(3)(a).
2. Required training includes, but is not limited to the following topics:
  - (1) long term care ombudsman program;
  - (2) the process of aging;
  - (3) the institutionalized elderly;
  - (4) nursing homes;

- (5) board and care homes;
- (6) state and federal regulatory systems;
- (7) rights of residents;
- (8) community resources;
- (9) Medicaid and Medicare;
- (10) complaint resolution;
- (11) ombudsman policies and procedures;
- (12) investigative techniques; and
- (13) managed care.

3. Certification must be renewed annually. Renewal is based on successful completion of at least fifteen (15) contact hours of in-service training each year and on adherence to ombudsman policies and procedures. At least six (6) hours of this training must be sponsored by the Office. The remainder may be earned by attending any relevant training, subject to the conditions described below. If requirements for the current year have been met, hours earned during the final quarter of a calendar year may be carried over to the following year.
4. Training programs not sponsored by the Office will be eligible for in-service credit provided that:
  - (1) The topic is related to ombudsman work;
  - (2) The course or training is approved in advance by the State Ombudsman; and
  - (3) The course or training must be at least one hour in length.
5. In order to receive credit for such courses an ombudsman may either attend a program which has already been approved by the State Ombudsman or must submit in advance a written request for approval of a particular program. Requests for approval must include:
  - (1) Brief description of training;

- (2) Who is conducting or sponsoring the training;
    - (3) When and where it is being held; and
    - (4) Who the trainers/speaker are (if available).
  6. Ombudsmen must provide evidence of attendance at any outside training and may be required to submit a written report of the training.
  7. Recertification will be done on a calendar year basis. It is the responsibility of each designated local ombudsman entity to monitor at least the following activities to assure eligibility for recertification:
    - (1) number of visits per month;
    - (2) number of hours per month;
    - (3) number of cases handled per month; and
    - (4) number of inservice hours completed per quarter.
  8. Newly certified ombudsmen shall not be required to earn inservice hours during the first year or partial year following their initial certification. Instead, they shall be required to attend training sessions conducted by the Ombudsman Coordinator on the following topics: problem resolution; resident rights; and assertiveness/communication. This training shall be conducted in accordance with guidelines and materials prepared by the State Long Term Care Ombudsman. This training must be completed within the first six months following certification. As of the beginning of the calendar year following initial certification, regular inservice training requirements will apply.
4. Examination
1. A written and/or oral examination will be administered to assess the trainee's knowledge of the long term care system, of long term care residents, and of the problem-solving process. The examination will be evaluated on a "pass/conditional pass/fail" basis.
  2. If a trainee receives a "conditional pass," the State Ombudsman, in conjunction with the trainee, will identify additional activities or training which must be

successfully completed to obtain a "pass" rating.

3. If a trainee fails the examination, the State Ombudsman, in conjunction with the trainee, will identify additional training and activities to prepare the trainee for successful completion of the next written examination.
  4. Each trainee may take the examination no more than three times, without repeating the classroom component of the training. All attempts must be made within one year of the completion of the classroom component of the training. The recommendation of the Coordinator and the permission of the State Ombudsman are required before a trainee can repeat the classroom component.
5. Internship
1. Prerequisites. A passing score on the written examination must be attained prior to the internship. In conjunction with the training program, each trainee will be required to spend 12 hours visiting in a long term care facility. Previous experience may not be substituted. The internship must extend over a minimum of three weeks and must be completed within two months of passing the certification examination.
  2. Purposes
    - (1) to familiarize the trainee with a long term care facility;
    - (2) to provide an opportunity for the trainee to develop and/or refine skills in relating to residents and facility staff; and
    - (3) to provide friendly visiting for residents.
  3. Introduction. A prerequisite to visiting with the residents is an initial meeting with the facility administration. That meeting is to discuss the purpose of the internship and the facility's policies.
  4. Evaluation. From two to four hours of the internship will be supervised by the State Ombudsman or his designee. Evaluation forms to assess the internship will be completed by the long term care facility administrator and the State Ombudsman or his designee. The internship will be evaluated on a "pass/conditional pass/fail" basis. If a trainee receives a "conditional pass," the

State Ombudsman, in conjunction with trainee, will identify additional activities which must be successfully completed to attain a "pass" rating. The internship may be evaluated only twice.

6. Leave of Absence

1. Individuals who are unable to fulfill their program responsibilities due to extended illness, family problems, or other unforeseen circumstances may request a leave of absence. A written request must be submitted to the State Ombudsman with a specified time period for the leave. If granted, ombudsman responsibilities will be suspended until the leave is concluded.
2. A formal leave of absence is not required for absences of two weeks or less. Such absences should be recorded by the local ombudsman entity and should not total more than six weeks in a calendar year.

7. Revocation. Certification may be revoked by the State Ombudsman if ombudsman policies and procedures are violated. An ombudsman shall receive written notification that certification is to be revoked ten working days before revocation. The ombudsman may appeal the decision to the director of GOEA prior to the date of revocation. If certification is revoked, the appropriate long term care facility administrator shall be so informed in writing by the State Ombudsman.