



The National **Long-Term Care**
Ombudsman Resource Center



Systems Advocacy and the Proposed Minimum Staffing Standard

October 25, 2023

Housekeeping

- ▶ Use the **chat feature** to submit comments or respond to questions from speakers or other attendees.
- ▶ Links to **resources** will be posted in the chat box and will be posted to the [NORC website](#).

What is Systems Advocacy?

Recommending Changes to a System

- ▶ Facility-Wide
- ▶ Corporate-Wide
- ▶ Issue specific (county, region, statewide) – develop and disseminate information
- ▶ Provide information to a legislator or their staff
- ▶ Recommend changes to laws, regulations, or policies (local, state, or federal)
- ▶ Provide information to the media
- ▶ Lead or participate in a taskforce
- ▶ Provide educational forums, facilitate public comment
- ▶ Provide information to public or private agency
- ▶ Legal action



Older Americans Act (OAA)

► Requirements

- Represent interests of residents before government agencies
- Seek administrative, legal, or other remedies
- Analyze, comment on, and recommend changes in laws and regulations pertaining to the health, safety, welfare, and rights of residents as the Office of the SLTCO deems appropriate
- Facilitate public comment on laws, regulations, policies, and actions

► Application

- Requirements regarding systems advocacy apply to the LTCOP and program representatives, meaning State *and* Local LTCO
- As the “head” of the OSLTCO, the SLTCO sets the tone and messaging regarding systems advocacy and may:
 - Create a statewide systems advocacy plan
 - Represent the OSLTCOP in testifying before the legislature

LTCOP Rule

1324.11 Establishment of the Office of the State Long-Term Care Ombudsman

▶ 1324.11(e)(5) Systems Advocacy Key Points

- ▶ Policies and procedures must assure that the Office is required (and has sufficient authority) to carry out its statutory responsibilities, as the Office determines is appropriate, and regardless of State lobbying laws.
- ▶ AoA response to a comment acknowledges that systems advocacy has been a challenge in some states, especially when the Ombudsman is a state employee.
- ▶ Clarifies that consultation with the SUA is encouraged--but cannot be used to control positions or communications of the Office.
- ▶ Administration for Community Living (ACL) LTCOP [FAQs](#) (#11)

LTCOP Rule

1324.13 Functions and Responsibilities of the State Long-Term Care Ombudsman

- ▶ Reiterates functions from OAA, including systems advocacy, and provides further clarification that:
 - ▶ Ombudsman fulfillment of systems advocacy function of OAA does not violate federal lobbying restrictions and positions of the Office do not necessarily represent those of the State agency or other agency where the Office is housed.
 - ▶ Ombudsman is responsible for providing leadership for “statewide systems advocacy efforts of the Office.”

State Ombudsman Leadership in Statewide Systems Advocacy

▶ **Develop a plan/agenda**

- ▶ Listen to experiences of representatives to identify issues
- ▶ Analyze data for trends (not just complaint information)
- ▶ Involve representatives in systems advocacy

▶ **Leadership**

- ▶ Develop a systems advocacy agenda/plan
- ▶ “Model” systems advocacy (e.g., provide testimony, develop materials)

▶ **Support**

- ▶ Provide training to LTCOP representatives regarding systems advocacy
- ▶ Provide support and assistance to address barriers

Role of Ombudsman Representatives in Systems Advocacy

- ▶ **Represent the interests of residents** before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
- ▶ **Review, and if necessary, comment** on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents;
- ▶ **Facilitate the ability** of the public to comment on the laws, regulations, policies, and actions;
- ▶ **Support the development** of resident and family councils; and,
- ▶ **Carry out other activities** that the [State] Ombudsman determines to be appropriate.

(Older Americans Act of 1965, Sec. 712(a)(3), 712(a)(5)(B), 712(h)(3), 42 U.S.C. §3058g)

Key Resources

▶ LTCOP Reference Guides: Role and Responsibilities of Ombudsman Programs Regarding Systems Advocacy

<https://ltcombudsman.org/uploads/files/support/ltco-systems-advocacy-ref-guide-final.pdf> (local)

<https://ltcombudsman.org/uploads/files/support/slco-systems-advocacy-ref-guide-final.pdf> (state)

▶ NORC Systems Advocacy

https://ltcombudsman.org/omb_support/advocacy

▶ ACL LTCOP FAQs (11)

<https://acl.gov/programs/long-term-care-ombudsman/long-term-care-ombudsman-faq>

The screenshot displays the 'LTCOP REFERENCE GUIDE' from the National Long-Term Care Ombudsman Resource Center. The main title is 'Role and Responsibilities of Ombudsman Programs Regarding Systems Advocacy'. Below this, it lists 'LOCAL OMBUDSMAN PROGRAM REPRESENTATIVES' and provides an overview of their role. The document is structured into several sections: OVERVIEW, KEY POINTS, PREPARATION, RESOURCES, PROGRAM MANAGEMENT, and ADDRESSING POTENTIAL BARRIERS. A table of contents is visible, listing various topics such as 'Plan Development', 'Data/Problem Identification', 'Potential Collaboration', 'Scope', 'Risks and Rewards', 'What program resources will be devoted to systems advocacy?', 'How will this advocacy impact your program?', 'Roles, Responsibility and Training', 'Host Agency Support', and 'Communication'.

Systems Advocacy (SA) Strategies

Coalition Building/ Partnerships

- Expand the reach of the LTCOP by developing partnerships, building or joining a coalition with other entities that share an interest in improving long-term care

Issue Advocacy

- Develop a systems advocacy approach in response to the issues identified after data analysis or a timely “hot topic” issue outside of LTCO complaint data

Legislative Advocacy

- Required to participate in legislative advocacy
- Analyze, comment on and monitor the development and implementation of federal, state, and local laws, regulations, and policies related to long-term care

Basic Questions to Consider When Engaging in Systems Advocacy

Preparation	<ul style="list-style-type: none">• <i>(SLTCO)</i> What are the priorities of the OSLTCO and in what areas do you need to respond to as part of your systems advocacy agenda (e.g., do you have clear legislative or regulatory priorities)?• <i>(SLTCO)</i> Are you including local LTCOPs in this effort? How will you share your plan and systems advocacy activities?• <i>(Program Representatives)</i> Is your local systems advocacy work part of the statewide systems advocacy plan? Are you coordinating your effort with the State LTCO and other local LTCOPs?
Resources	<ul style="list-style-type: none">• <i>(Both)</i> Do you have internal program resources that could be utilized (e.g., staff or volunteers with skills or expertise related to the issue)?• <i>(Both)</i> Will your program need support from external sources? If so, is there a potential for perceived or actual conflict of interest or other concerns when enlisting such support (e.g., university research, experts)?
Program Management	<ul style="list-style-type: none">• <i>(SLTCO)</i> Is the SLTCO providing leadership and support for local ombudsmen in understanding and making an impact on the pertinent process, system, or issue?• <i>(Both)</i> Is additional training necessary for the individuals involved?
Addressing Potential Barriers	<ul style="list-style-type: none">• <i>(Both)</i> Is the program located in an agency or organization that supports the program's requirement to act on behalf of residents even if the result is a public stance that differs from that of the placement organization or agency?• <i>(Both)</i> Is there any opposition to your systems advocacy agenda? If so, do you have responses to their concerns?



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Proposed Minimum Staffing Standard in Nursing Homes

Information and Support for Commenting

- ▶ Notice of Proposed Rulemaking (NPRM) [published](#) September 6, 2023
- ▶ Comments are due **November 6, 2023**
- ▶ Consumer Voice has [detailed instructions for how to comment and talking points](#)
- ▶ [Webinar recordings and materials](#)
 - ▶ A Guide to Submitting Comments on the Proposed Minimum Staffing Rule
 - ▶ Unpacking CMS's Proposed Minimum Staffing Standard



Resources

To Recap

- ▶ The LTCOP is required to resolve problems for residents at the individual and systems level.
- ▶ State policies and procedures must require, and provide sufficient authority, for the LTCOP to conduct systems advocacy.
- ▶ The LTCOP is excluded from state lobbying prohibitions.
- ▶ The State Ombudsman is the leader of statewide systems advocacy.
- ▶ Follow your program policies and procedures regarding systems advocacy.
- ▶ Consult your supervisor and/or State Ombudsman regarding systems advocacy activities.

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