



Office of the State Long-Term Care

OMBUDSMAN

Established within the Iowa Department on Aging

Iowa Office of the State Long-Term Care Ombudsman

Policy Manual

Updated January 30, 2019

The mission of the Office of the State Long-Term Care Ombudsman is to protect the health, safety, welfare, and rights of individuals residing in long-term care by investigating complaints, seeking resolutions to problems, and providing advocacy with the goal of enhancing quality of life and care.

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Title: Definitions

Administrative or evidentiary hearing: refers to any contested proceeding before an Administrative Law Judge (ALJ) serving as the adjudicator, which affects the legal rights, duties, or privileges of a party and includes all affected parties. A hearing is conducted by the ALJ who is in a position to make a ruling. A hearing may take place in person, by phone or by other electronic media.

Administrative Law Judge (ALJ): means the person who presides over contested cases and other proceedings.

Agent: A person granted authority to act for a principal under a power of attorney (financial).

Attorney-in-fact: An individual who is designated by a durable power of attorney for health care as an agent to make health care decisions on behalf of a principal and has consented to act in that capacity. Iowa Code 144B

Auxiliary Aids or Services: means

1. Qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
2. Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

Candidate: An individual applying for an open position within the office and seeking to serve as a Representative.

Capacity: The ability to understand the nature and effects of one's acts. (medical determination)

Case: Each inquiry brought to, or initiated by, the representative on behalf of a resident/tenant or group of residents/tenants involving one or more complaints which requires opening a case and includes representative investigation, and/or strategy to resolve, and follow-up. A case includes one or more complaints brought to, or initiated by, the representative in which the representative is actively involved and/or which the representative investigates and works to resolve. There may be complaints in which the representative is actively involved which

another agency investigates and also helps resolve. The number of cases is equivalent to the number of complainants. One or more people jointly filing a complaint count as one complainant.

Closed Case: A case is closed when none of the complaints within the case require any further action on the part of the representative and every complaint has been assigned the appropriate disposition code.

Competency: A legal finding determined by a review of medical capacity, functional limitations, cognitive and functional abilities. Iowa Code 633

Complaint: A concern brought to, or initiated by, the representative for investigation and action on a) on behalf of one or more residents/tenants and b) relating to the health, safety, welfare or rights of a resident/tenant. One or more complaints constitute a case. You cannot have a case without a complaint. Verifying Complaints – Representatives always attempt to verify complaints, but they work to resolve a complaint, whether it is verified or not. Definition of verified: It is determined after work (interviews, record inspection, observation, etc.) that the circumstances described in the complaint are generally accurate.

Confidential information may be verbal or written and includes but is not limited to:

- the name and address of the resident/tenant/complainant;
- information about the resident's/tenant's medical condition;
- the resident's/tenant's medical history;
- the resident's/tenant's social history, which includes occupation, residences and information about a resident's/tenant's family;
- the resident's/tenant's source of payment;
- information about the resident's/tenant's personal life; and
- information from a conversation between a resident/tenant and a representative of the Office.

Confidential information does not include:

facility policies and procedures; or
statistical data about residents or complaints filed with the Office.

Confidentiality: the state of having the dissemination of certain information restricted (Black's Law Dictionary)

Conservator: A person appointed by the court to have the custody and control of the property of a ward. Iowa Code 633.3(7) and 633A.1102 (5)

Consultation: A consultation is providing information and assistance to an individual or a facility.

- A. It does not involve investigating and working to resolve complaints (i.e., a consultation is not a case).

- B. If the representative refers someone with a concern to another agency and is not actively involved in investigating and working to resolve the problem, it is not a case or complaint. However, it can be counted as a consultation.

Core team agencies: Department of Inspections and Appeals, Department of Human Services – Iowa Medicaid Enterprise, Disability Rights Iowa, Office of the State Long-Term Care Ombudsman

Dependent Adult Abuse

- **Iowa Code 235B: Dependent Adult Abuse Services—Information Registry**

Caretaker: means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

Dependent Adult: means a person eighteen years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.

Dependent Adult Abuse: means:

- (1) Any of the following as a result of the willful or negligent acts or omissions of a caretaker:
 - (a) Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
 - (b) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.
 - (c) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
 - (d) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or health.
- (2) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.
- (3)
 - (a) Sexual exploitation of a dependent adult by a caretaker.
 - (b) **"Sexual exploitation"** means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. *"Sexual exploitation"* includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation. Sexual exploitation does not

include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

- **Iowa Code 235E: Dependent Adult Abuse in Facilities and Programs**

Caretaker: means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court.

Dependent adult: means a person eighteen years of age or older whose ability to perform the normal activities of daily living or to provide for the person's own care or protection is impaired, either temporarily or permanently.

a. ***"Dependent adult abuse"*** means:

(1) Any of the following as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances:

(a) A physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult which involves a breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances. ***"Assault of a dependent adult"*** means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

(b) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.

(c) Exploitation of a dependent adult. ***"Exploitation"*** means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult's funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

(d) Neglect of a dependent adult. ***"Neglect of a dependent adult"*** means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or physical or mental health.

(2) Sexual exploitation of a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. ***"Sexual exploitation"*** means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. ***"Sexual exploitation"*** includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of

an ongoing investigation. *“Sexual exploitation”* does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

(3) Personal degradation of a dependent adult. **“Personal degradation”** means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. “Personal degradation” includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker’s actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. “Personal degradation” does not include the taking, transmission, or display of an electronic image of a dependent adult for the purpose of reporting dependent adult abuse to law enforcement, the department, or other regulatory agency that oversees caretakers or enforces abuse or neglect provisions, or for the purpose of treatment or diagnosis or as part of an ongoing investigation. “Personal degradation” also does not include the taking, transmission, or display of an electronic image by a caretaker in accordance with the facility’s policies or program’s confidentiality policy and release of information or consent policies.

Mandatory Reporter: A staff member or employee of a facility or program who, in the course of employment, examines, attends, counsels, or treats a dependent adult in a facility or program and reasonably believes the dependent adult has suffered dependent adult abuse, shall report the suspected dependent adult abuse to the department. A Representative is not a mandatory reporter of abuse.

Disclosure: the act or process of making known something that was previously unknown.
(Black’s Law Dictionary)

Disposition: Outcome of the complaint

- A. You need a disposition code for each complaint, whether or not the complaint is verified.
- B. Each complaint has only one disposition code. You must choose the best one.
- C. When choosing a disposition code, always follow the direction of the resident. If you cannot get direction from the resident, and there is no legal representative, or the representative’s direction is inconsistent with the previously expressed wishes of the resident, then take direction from the complainant.
- D. Remember, disposition codes record outcomes, not activities. You may perform many activities when resolving and investigating a complaint, but there is only one outcome.

Disposition Codes:

- A. Legislative or Regulatory Action Required – Policy, regulatory or legislative change needed to resolve.
- B. Not Resolved – Problem not corrected or change that was made was not to satisfaction of resident in any way.
- C. Withdrawn – Complaint withdrawn at the request of the resident, complainant, or discontinued by the representative or if a significant portion was resolved prior to withdrawal, record as partially resolved.
- D. Referred for resolution and:
 - 1. Final disposition not obtained
 - 2. Other agency failed to act
 - 3. Agency did not substantiate
- E. No action needed or appropriate – Determined after representative investigation.
- F. Partially resolved – Complaint addressed in part to the satisfaction of the resident or complainant, some problem remained.
- G. Resolved – Resident is satisfied with the outcome.

Durable Power of Attorney for Health Care: A document authorizing the attorney-in-fact to make health care decisions for the principal if the principal is unable, in the judgment of the attending physician. Iowa Code 144B

Financial Power of Attorney: A writing that grants authority to an agent to act in the place of the principal (on financial matters). Also known as a General Power of Attorney. Iowa Code 633B; 558.36 and 597.5

Forcible Detainer: Wrongful retention of possession of property by one originally in lawful possession

Forcible Entry and Detainer (FED): The act of taking and keeping possession of lands and tenements without legal authority

Gift: A rendering of anything of value in return for which legal consideration of equal or greater value is not given and received.

Guardian: The person appointed by the court to have custody of the person of the ward. Iowa Code 633; 600A; 225C.35 (4); 232.2(21) and 633A.1102 (8)

Health Care: Any care, treatment, service or procedure to maintain, diagnose, or treat an individual's physical or mental condition. Iowa Code 144B

Immediate Family: A member of the household or a relative with whom there is a close personal or significant financial relationship.

Individual Conflict of interest includes:

- A. Employment of the Representative, candidate or a member of the Representative's or candidate's immediate family by a long-term care facility, by the owner or operator of any long-term care facility, by an association of long-term care facilities or by a managed care organization within the previous one year
- B. Participation in the management of a long-term care facility or managed care organization by the Representative, candidate or a member of the Representative's or candidate's immediate family within the previous one year
- C. Ownership, operational or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility, managed care organization or long-term care service by the Representative, candidate or member of the Representative's, or candidate's immediate family within the previous two years
- D. Involvement in the licensing, surveying or certifying of a long-term care facility, managed care organization or provision of a long-term care service by the Representative, candidate or a member of the Representative's or candidate's immediate family within the previous one year
- E. Receipt of, or right to receive remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility or a managed care organization by the Representative, candidate or a member of the Representative's, candidate's immediate family within the previous two years
- F. Acceptance of any gifts or gratuities of significant value to a Representative, candidate or a member of the Representative's, or candidate's immediate family from a long-term care facility, a managed care organization, or a resident/tenant or a resident's/tenant's representative within the previous two years
- G. Acceptance of money or any other consideration from anyone other than an entity approved by the Ombudsman for the performance of the Long-Term Care Ombudsman program duties within the previous two years
- H. Provision of services with an outside employer that conflict with the duties of a Representative within the previous one year
- I. Provision of services to residents/tenants of a facility in which a Representative, candidate or a member of the Representative's or candidate's immediate family currently resides or has resided within the previous two years
- J. Provision of guardianship or other surrogate decision-maker services by the Representative, candidate or a member of the Representative's or candidate's immediate family for a resident/tenant residing in a facility within the previous one year
- K. Residence of the Representative, candidate or a member of the Representative's or candidate's immediate family in a facility within the previous two years
- L. Participation in activities which negatively affect the Representative's or candidate's ability to serve residents/tenants/Medicaid members or which are likely to create a perception that the Representative's or candidate's primary interest is other than as an advocate for the residents/tenants/members within the previous one year

Informed Consent: A person's agreement to allow something to happen, made with full knowledge of the risks involved and the alternatives. (Black's Law Dictionary)

Long-term care facilities are defined as those below:

Assisted Living Program: ALP-provision of housing with services, which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living, to three or more tenants in a physical structure, which provides a homelike environment. Includes encouragement of family involvement, tenant self-direction and tenant participation in decisions and 24 hours per day response staff to meet needs (Iowa code Chapter 231C).

Assisted Living Programs for People with Dementia: Dementia-specific assisted living program - a program that serves fewer than 55 tenants and has 5 or more tenants with dementia between Stages 4 and 7 on the Global Deterioration Scale or serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the Global Deterioration Scale or holds itself out as providing specialized care for persons with dementia in a dedicated setting. (481 IAC 69.1)

Chronic Confusion or Dementing Illness Unit: "Chronic Confusion or Dementing Illness" is a special license classification for nursing facilities or a special unit within such a facility providing care to persons who suffer from chronic confusion or dementing illness. Reference to Chronic Confusion or Dementing Illness Units is made in the acts and joint resolutions of the 1990 regular session of the Seventy-Third General Assembly of the State of Iowa. (481 IAC 58.54)

Elder Group Home: EGH-a single family residence that is operated by a person who is providing room, board, and personal care and may provide health related services to three to five elders who are not related to the person providing the service within the third degree of consanguinity or affinity, which is staffed by an on-site manager 24 hours per day, 7 days per week. (Iowa Code Chapter 231B).

Hospital-Based Nursing Facility/Skilled Nursing Facility: The term (distinct-part) denotes the unit is organized and operated to give a distinct type of care within a larger organization which renders other types of levels of care. Distinct denotes both organizational and physical separateness. A distinct-part skilled nursing facility unit, skilled nursing facility/nursing facility unit, or nursing facility unit must be physically identifiable and be operated distinguishably from the rest of the skilled nursing facility unit, skilled nursing facility/nursing facility unit, or nursing facility unit beds of the institution. It must consist of all the beds within the unit, such as a separate building, floor, wing or ward. Several rooms at one end of a hall or one side of a corridor may be acceptable as a distinct part of a skilled nursing facility unit, skilled nursing facility/nursing facility unit, or nursing facility unit. (Title 42 CFR]

Nursing Facility/Skilled Nursing Facility: Nursing Facilities are institutions or distinct parts of institutions housing three or more individuals for a period exceeding 24 consecutive hours, whose primary purpose is to provide health-related care and services, including rehabilitation,

for individuals who because of mental or physical condition, require nursing care and other services in addition to room and board. Nursing facilities do not engage primarily in providing treatment or care for mental illness or intellectual disability. (Iowa Code chapter 135C)

Residential Care Facility: Residential Care Facilities are institutions, places, buildings, or agencies providing accommodation, board, personal assistance and other essential daily living activities to 3 or more individuals for a period exceeding 24 consecutive hours. Individuals living in a residential care facility are unable to sufficiently or properly care for themselves because of illness, disease, or physical or mental infirmity, but do not require the services of a registered or licensed practical nurse, except for emergencies. (Iowa Code chapter 135C)

Organizational Conflicts of Interest includes placement of the Office in an organization that:

- A. Licenses, surveys or certifies long-term care facilities;
- B. Serves as an association of long-term care facilities;
- C. Has ownership or investment interest or receives grants or donations from a long-term care facility;
- D. Has commissioners with any ownership, investment or employment interest in long-term care facilities;
- E. Provides long-term care to residents of long-term care facilities;
- F. Provides long-term care coordination or case management for residents of long-term care facilities;
- G. Sets reimbursement rates for long-term care facilities;
- H. Provides adult protective services;
- I. Determines eligibility for Medicaid or other public benefits for residents of long-term care facilities;
- J. Conducts pre-admission screenings;
- K. Makes decisions on admissions and discharges from long-term care facilities;
- L. Provides guardianship, conservatorship, or other fiduciary or surrogate decision making services for residents of long-term care facilities.

Principal: An individual who authorizes a person to act on his or her behalf through a power of attorney document. Iowa Code 144B

Representative Payee: An individual appointed by a federal government entity to receive funds on behalf of a beneficiary and to meet the beneficiary's basic needs.

Resident Representative: means any of the following:

1. An individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications;
2. A person authorized by state or federal law (including but not limited to agents under powers of attorney, representative payee, and other fiduciaries) to act on behalf of the resident;
3. Legal representative;

4. The court-appointed guardian or conservator of a resident;
(45 CFR 1324.1)

Significant Value: Gifts or gratuities valued at more than \$3.00

State Agency – Iowa Department on Aging

Substitute Decision Maker: Is defined as a guardian, conservator, representative payee, agent or attorney-in-fact under a power of attorney, or a personal representative. Iowa Code 231E

Policy No: Omb-1
Effective Date: Immediately

TITLE: Responsibilities of a Representative of the Office: Local Long-Term Care Ombudsman (Local Ombudsman)

Statutory References: Iowa Code § 231.42
42 U.S.C. 3058g(a)(3)
45 CFR 1324.13(a)(1)(ii)(A)(4)
17 Iowa Administrative Code 8
Iowa Code § 135C

STATEMENT of POLICY: A Local Ombudsman shall advocate on behalf of residents or tenants of long-term care facilities, including nursing facilities, assisted living programs, residential care facilities, and elder group homes, to protect their rights, safety and welfare; to aid in satisfactory resolution of problems; and to improve the quality of life experienced by and the quality of care provided to these individuals. Although Local Ombudsmen are to advocate on behalf of the resident's or tenant's wishes, a Local Ombudsman does not advocate when it involves any illegal activity. Responsibilities of the Local Ombudsman may be categorized by Stationed Local Ombudsman or Mobile Local Ombudsman.

Definitions:

Long-term care facilities are defined as those below:

Assisted Living Program: ALP-provision of housing with services, which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living, to three or more tenants in a physical structure, which provides a homelike environment. Includes encouragement of family involvement, tenant self-direction and tenant participation in decisions and 24 hours per day response staff to meet needs (Iowa code Chapter 231C).

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Hospital-Based Nursing Facility/Skilled Nursing Facility: The term (distinct-part) denotes the unit is organized and operated to give a distinct type of care within a larger organization which renders other types of levels of care. Distinct denotes both organizational and physical separateness. A distinct-part skilled nursing facility unit, skilled nursing facility/nursing facility unit, or nursing facility unit must be physically identifiable and be operated distinguishably from the rest of the skilled nursing facility unit, skilled nursing facility/nursing facility unit, or nursing facility unit beds of the institution. It must consist of all the beds within the unit, such as a separate building, floor, wing or ward. Several rooms at one end of a hall or one side of a corridor may be acceptable as a distinct part of a skilled nursing facility unit, skilled nursing facility/nursing facility unit, or nursing facility unit. (Title 42 CFR]

Nursing Facility/Skilled Nursing Facility: Nursing Facilities are institutions or distinct parts of institutions housing three or more individuals for a period exceeding 24 consecutive hours, whose primary purpose is to provide health-related care and services, including rehabilitation, for individuals who because of mental or physical condition, require nursing care and other services in addition to room and board. Nursing facilities do not engage primarily in providing treatment or care for mental illness or intellectual disability. (Iowa Code chapter 135C)

Residential Care Facility: Residential Care Facilities are institutions, places, buildings, or agencies providing accommodation, board, personal assistance and other essential daily living activities to 3 or more individuals for a period exceeding 24 consecutive hours. Individuals living in a residential care facility are unable to sufficiently or properly care for themselves because of illness, disease, or physical or mental infirmity, but do not require the services of a registered or licensed practical nurse, except for emergencies. (Iowa Code chapter 135C)

PROCEDURE: Each Stationed Local Ombudsman shall be accountable for timely and effective completion of the following tasks (Iowa Code § 231.42(3); 42 U.S.C. 3058g(a)(3)) via telephone, email, phone conferences, web based meetings or, as able, complaint based facility visits:

- I. Conduct intakes, visits, interviews, and document outcomes
- II. Use of appropriate investigatory techniques
- III. Develop resolution strategies and a plan of action to resolve concerns
- IV. Make complaint-based facility and program visits as able

- V. Review and analyze Department of Inspections and Appeals survey results (Iowa Code 231.42(4)(b))
- VI. Maintain an effective record keeping system to assure timely and accurate reporting of relevant data (42 U.S.C. 3058g(c))
- VII. Review state and federal rules/regulations and maintain a working knowledge
- VIII. Maintain a working knowledge of resident and tenant rights and ensure those rights
- IX. Collaborate and consult with other Older Americans Act Title VII partners
- X. Provide information, consultation and education to residents, tenants, and/or their representative, families and referral/service related providers, facility staff, resident and family councils, and community groups
- XI. Provide support and consultation to certified volunteers
 - A. Stationed LLTCO shall read assigned volunteer reports submitted by hard copy (on the shared drive) and/or in ODS by the end of the calendar month
 - 1. Stationed LLTCO shall notify assigned volunteers that report was received and provide technical assistance as needed
 - a. Enter “technical assistance” program activity into the approved documentation system (Ombudsmanager)
 - b. Enter case work into the approved documentation system (Ombudsmanager) as applicable—monitor possible case work from month to month
 - B. Stationed LLTCO shall follow up with assigned volunteers whose reports were not received
 - 1. Open/create report for month for volunteer to enter if needed as a place holder (i.e. if it's July and June's report has not been created).
- XII. Promote the Long-Term Care Ombudsman program through networking with internal and external customers
- XIII. Participate in on-going Ombudsman training, Volunteer Ombudsman training and in-service education
- XIV. Contribute to activities of assigned task forces and workgroups
- XV. Assist the Ombudsman with issues and advocacy
- XVI. Voice mail messages shall be checked by the LLTCO throughout the work day no less than three times daily
- XVII. All LLTCO calendars shall be kept current and shall display all appointments including but not limited to facility check-ins, resident council check-ins, calls to Volunteer Ombudsmen and resident and tenant calls

In addition to I-XV above, Stationed Local Ombudsman will conduct facility check-ins via telephone with each of the facilities on the Stationed Local Ombudsman’s assigned facility check-in roster in a manner that accomplishes a check-in with each facility on the roster each state fiscal year. During the first check-in with the facility the Stationed Local Ombudsman will

ascertain the name and contact information for the resident council president, or other resident council contact at that facility. The Stationed Local Ombudsman shall conduct a phone touch base with the resident council president or other resident council contact. The Stationed Local Ombudsman shall maintain a spreadsheet, on the shared drive, of contact information for the resident council contacts for the Stationed Local Ombudsman's assigned roster of facilities.

The Stationed Local Ombudsman shall participate in an individual bi-weekly touch base call with Ombudsman and/or lead worker for purposes of discussing current status of assigned duties and current workload. Calls will be scheduled by the Ombudsman and/or lead worker.

Each Mobile Local Ombudsman shall be accountable for timely and effective completion of items I, II, III, V, VI, VII, VIII, IX, X, XII, XIII, XV, XVI, and XVII. In addition, each Mobile Local Ombudsman shall make unannounced facility and program monitoring visits to monitor operations of long-term care (LTC) facilities per a schedule as assigned by the Ombudsman or lead worker.

A complaint made to a Mobile Local Ombudsman during a monitoring visit, that cannot be resolved during the visit shall be transmitted to the Ombudsman via intake form, See [Attachment K: Intake Form](#) for distribution to a Stationed Local Ombudsman for resolution.

The Mobile Local Ombudsman shall participate in an individual monthly touch base calls with the Ombudsman and/or lead worker for purposes of discussing current scheduled monitoring visits and current workload. Calls will be scheduled by the Ombudsman or lead worker.

TITLE: Distribution of Tasks

STATEMENT of POLICY: Local Ombudsman's distribution of tasks shall be determined by the Ombudsman and/or lead worker.

PROCEDURE: The geographic area of the state is divided into two districts, the northern district and the southern district see [Attachment R: LLTCO District Map](#). Each district is served by three stationed local ombudsman and one mobile local ombudsman.

Calls for assistance on the 866 number, or via the Iowa Department on Aging (IDA) website shall be assigned, on a rotating schedule to the Stationed Local Ombudsman according to district, as determined by the Ombudsman and/or the lead worker.

Involuntary discharges/transfers shall be assigned on a rotating schedule to the Stationed Local Ombudsman, by district, as determined by the Ombudsman and/or lead worker.

Facility closures shall be assigned on a rotating schedule to the Stationed Local Ombudsman by district as determined by the Ombudsman and/or lead worker.

Calls from Department of Inspections and Appeals surveyors shall be assigned on a rotating schedule to the Stationed Local Ombudsman by district as determined by the Ombudsman and/or lead worker.

Stationed Local Ombudsman shall have an assigned roster of facilities, by district, for facility check-in calls and resident council check-in calls.

Stationed Local Ombudsman shall have an assigned roster of Volunteer Ombudsman, by district, for review of Volunteer Ombudsman reports, technical assistance and entering of Volunteer Ombudsman cases.

Mobile Local Ombudsman shall be assigned a schedule for onsite facility monitoring visits each month as determined by the Ombudsman and/or lead worker.

When a Stationed Local Ombudsman determines that they are unable to respond to a Level 1 inquiry within two business days due to work load, including not being current on documentation the Stationed Local Ombudsman shall set up a call with the Ombudsman and/or lead worker to discuss possible workload redistribution.

TITLE: Intake and Triage of Complaints

Statutory References: Iowa Code § 231.42
42 U.S.C 3058g(a)(3)
45 CFR 1324.11(e)2
17 Iowa Administrative Code 8

STATEMENT of POLICY: Any long-term care facility resident/tenant is eligible to receive assistance from the Long-Term Care Ombudsman Program. A Representative of the Office (Representative) will respond to complaints related to conditions or treatment of persons receiving long-term care services as mandated generally by federal and state law, regulations and rules, while maintaining a resident/tenant-directed focus. Within the capabilities of the office's available resources, intake and disposition of complaints shall be accomplished in a way designed to facilitate the consistent, timely and orderly response, investigation, resolution and documentation of complaints.

Representatives will approach these functions with an emphasis on residents'/tenants' rights and with a continuing concern for resident/tenant empowerment. Assistance to the complainant may be delivered through direct advocacy by the Representative, through resident/tenant self-advocacy with assistance and direction of the Representative, or through a blend of methods.

The Long-Term Care Ombudsman Program is not an emergency response organization. Calls placed to the Long-Term Care Ombudsman Program's toll-free line or complaints received on the Iowa Department on Aging website are received and triaged Monday – Friday during normal business hours. A Representative shall use his or her best efforts to initiate investigations of complaints in a timely manner in order to resolve the complaint to the satisfaction of the resident/tenant.

Policy Elements

Calls received at the Des Moines office and intakes from the Mobile Local Ombudsman shall be assigned to a Stationed Local Ombudsman by the Ombudsman and/or lead worker.

- I. Intake and response to complainant and/or resident/tenant**
 - A. Define issue and determine type of response that is warranted
 1. Collect sufficient information
 2. Analyze issue(s) and develop options (which may include):

- a. address complaint by direct communication with facility, provider, other agencies (Iowa Code § 231.42(3)(a)) with resident/tenant/representative consent
 - b. provide information and/or assistance allowing the complainant to resolve complaint (Iowa Code § 231.42(3)(b))
 - c. open a case file (Iowa Code § 231.42(3)(a)) if complaint meets definition of a case
 - d. refer to another agency or service provider (Iowa Code § 231.42(3)(c) and 231.42(4)) with resident/tenant/representative consent
 - e. take no further action after conferring with complainant
3. Formulate recommendations for next steps

B. Document the nature of the call and the action taken per documentation policy

II. Timeliness of Response to Intake

Each incoming complaint is assessed or individually triaged by a Representative. Dominant factors considered are: severity and scope of a complaint, time sensitivity, complaints outside the mandates of the Office. The Representative will determine whether the concern may be dealt with 1.) through consultation 2.) by opening a case 3.) referring the complaint to another agency/party or 4.) assisting the complainant in resolving her/his own problem. The Representative is advised to contact the Ombudsman if the application of this policy to a specific situation is unclear. If the Representative determines the necessity of opening a case, the immediacy of investigation and resolution activities is guided according to the following:

A. Level 1 Priority – initiate a response within two business days

Complaints or concerns in this category relate primarily to potential or actual harm to a resident/tenant and take precedence over other complaints received by a Representative. It should be noted that Representatives do not provide “emergency” services.

1. Abuse/neglect allegations (Iowa Code § 231.42(4)(a)), Iowa Code 235B; 235E:
Long-term care facilities in Iowa are required to self-investigate and report abuse allegations to DIA, law enforcement, and/or the Department of Human Services, depending on the nature of the allegation. These agencies serve as the official finder of fact related to allegations of abuse, neglect, and exploitation. When complaints or concerns of abuse, neglect, or exploitation are received by a Representative, the purpose of investigating is to resolve the complaint to the resident’s/tenant’s satisfaction, rather than to substantiate whether the abuse or other allegation occurred. The Long-Term Care Ombudsman program does not have a duty to collect sufficient evidence to meet the higher legal standards of proof that protective services, licensing or regulatory agencies, or law enforcement may need to meet their respective purposes. A Representative may ensure that all necessary parties are actively involved and that the resident/tenant receives proper treatment,

is protected from further harm, and that remedies are in place to prevent abuse/neglect from occurring, with resident/tenant/representative permission.

Regarding procedures for disclosure, refer to [Ombudsman Policy 16: Reporting Abuse, Neglect, and Exploitation](#) and [Ombudsman Policy 7.1: Confidentiality](#).

2. Deterioration of Condition:

Reported changes such as recent rapid weight loss, malnutrition, reported new or increased decubiti, and other changes in condition which signal a lack of or inadequate nursing attention or care.

3. Potential Physical Harm to Resident:

Examples of these types of complaints are: resident is being restrained, either physically or chemically; facility is not administering prescribed medication or other involved persons are refusing to allow the administration of prescribed medication; failure to adequately assess and address acute or chronic pain; residents/tenants or the residential environment not kept safe; other situations in which no actual, or minimum harm has occurred but could if circumstances are not corrected.

4. Involuntary Discharge: Iowa Code 135C.14(8); Iowa Code 231B.6; Iowa Code 231C.6 and 481 Iowa Administrative Code 57.13(2); 57.36(1); 58.12(2); 58.40; 67.15; 68.15; 69.24

Under state and federal law and regulation, a long-term care facility may discharge a resident/tenant involuntarily with proper notice to the resident/tenant. A nursing facility shall not involuntarily discharge or transfer except for:

- a. Medical Reasons
- b. Residents welfare or that of other residents
- c. Non-payment for the residents stay
- d. Reason of action under Iowa Code 229 (mental health commitment)
- e. Negative action by Department of Human Services (DHS)
- f. Negative action by professional standards review organization
- g. Note: For an RCF—only look at categories a-d.

An assisted living program shall not involuntarily discharge or transfer except for a tenant who:

- a. Is bed-bound; or
- b. Requires routine, two-person assistance with standing, transfer or evacuation; or
- c. Is dangerous to self or other tenants or staff, including but not limited to a tenant who:
 - (1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse or aggression; or
 - (2) Displays behavior that places another tenant at risk; or

- d. Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness;
or
- e. Is under the age of 18; or
- f. Requires more than part-time or intermittent health-related care; or
- g. Has unmanageable incontinence on a routine basis despite an individualized toileting program; or
- h. Is medically unstable; or
- i. Requires maximal assistance with activities of daily living.

For Involuntary Discharge Guidelines See

[OMB-23.1](#) Involuntary Discharges for Nursing Facilities

[OMB-23.2](#) Involuntary Discharge for Assisted Living Programs

[OMB-23.3](#) Involuntary Discharge for Residential Care Facilities

- 5. If, at any time, a Stationed Local Ombudsman determines that their current workload impedes their ability to initiate a response to a Level 1 Priority complaint or concern, the Stationed Local Ombudsman shall contact the Ombudsman and/or lead worker to discuss a possible redistribution of tasks to other Stationed Local Ombudsmen. All documentation shall be kept current to facilitate the discussion for possible redistribution of tasks to other Stationed Local Ombudsman

B. Level 2 Priority – initiate a response within three business days

Concerns in this category specifically may not have the potential to cause harm to a resident/tenant. However, the concerns may affect the resident's/tenant's quality of life or well-being.

- 1. Guardianship/Power of Attorney issues
- 2. Appropriate facility placement for care needed
- 3. Unexplained or unreported accidents
- 4. Insufficient staff or staff not properly trained to meet needs
- 5. Resident/Tenant wants to go back home or to another setting
- 6. Admission/Occupancy agreements, facility policies, negotiated risk agreements or other facility-specific documentation concerns which require resident/tenant compliance

C. Level 3 Priority – initiate a response within five business days

There may be situations where the Representative is able to resolve complaints without having to visit the facility. That decision is always based on the Representative's impression after speaking with the complainant. The Representative will provide guidance and suggestions for resolution to the complainant. Examples of other priorities are:

- I. Lost laundry
- II. Dining room and dietary issues

- III. Broken furniture, fixtures, etc.
- IV. Lack of activity
- V. Billing or payment issues
- VI. Medicare/Medicaid eligibility

D. Very often, cases have multiple complaints/issues. In these instances, the Representative will address all issues that need to be resolved for that resident/tenant, even though some of them are not primary priority concerns.

E. Where timely investigation of a complaint is not possible, the Representative shall communicate with the Ombudsman for guidance.

III. Referrals

A. A resident/tenant or complainant is encouraged to make a referral directly to the proper agency or entity.

B. A Representative may refer a complaint to another agency with the consent of the resident/tenant, resident's/tenant's legal representative, or complainant. There may be some situations where no legal representative is available or the resident/tenant is not able to voice his/her wishes. In these situations, the Representative may refer it to an agency on behalf of the resident/tenant. See [Ombudsman Policy 7.1: Confidentiality](#).

- C. Referrals may be made to
- 1. Regulatory or enforcement agencies
 - 2. Providers of legal services
 - 3. Other human service and/or advocacy agencies after consideration of the needs of the resident/tenant
 - 4. Social Security Administration, Department of Veterans Affairs or Centers for Medicare and Medicaid Services
 - 5. Elder Abuse Program Director or Legal Assistance Developer
 - 6. Abuse Protective Services entities

D. In situations where protective services, licensing or regulatory agencies, law enforcement, or other referring agencies do not provide outcomes that serve the health, safety, welfare, and rights of residents/tenants, the Office may work to resolve complaints through systemic advocacy.

Vi. Monitoring Visit Intakes

IV. Monitoring Visit Intakes

- A. When a Mobile Local Ombudsman receives a complaint from a resident/tenant or complainant while conducting a monitoring visit, and that complaint cannot be

resolved on the day of the monitoring visit, the Mobile Local Ombudsman shall complete the intake form, Attachment K and transmit the intake form to the Des Moines Office at the conclusion of the monitoring visit.

- B. The Ombudsman and/or lead worker shall review the intake form and distribute the complaint to a Stationed Local Ombudsman for investigation and resolution per Policies [Omb 2](#), [Omb 3](#) and [Omb 4](#).

Policy No.: Omb-3
Effective Date: Immediately

TITLE: Cases, and Complaints and Consultations

Statutory References: Iowa Code § 231
42 USC § 3058g
45 CFR 1324.11(e)2

STATEMENT of POLICY: The Representative will make every attempt to complete her or his work on each case within 90 days from the date on which the complaint(s) was received. This activity includes, but is not limited to, complaint investigation, obtaining consent, access to necessary documentation, communications with all involved parties and referrals. If approved by Ombudsman, case resolution may be extended beyond 90 days due to circumstances outside the Representative's control and/or to achieve the most satisfactory results for the resident/tenant. If it is determined a situation does not meet the criteria to be a case, a determination will be made regarding whether it is a consultation or information only.

ELEMENTS:

Definitions:

Case: Each inquiry brought to, or initiated by, the representative on behalf of a resident/tenant or group of residents/tenants involving one or more complaints which requires opening a case and includes representative investigation, and strategy to resolve, and follow-up. A case includes one or more complaints brought to, or initiated by, the representative in which the representative is actively involved and/or which the representative investigates and works to resolve. There may be complaints in which the representative is actively involved which another agency investigates and also helps resolve. The number of cases is equivalent to the number of complainants. One or more people jointly filing a complaint count as one complainant.

Complaint: A concern brought to, or initiated by, the representative for investigation and action on a) on behalf of one or more residents/tenants and b) relating to the health, safety, welfare or rights of a resident/tenant. One or more complaints constitute a case. You cannot have a case without a complaint. Verifying Complaints – Representatives always attempt to verify complaints, but they work to resolve a complaint, whether it is verified or not. Definition of verified: It is determined after investigation (interviews, record inspection, observation, etc.) that the circumstances described in the complaint are generally accurate.

Disposition: Outcome of the complaint

- A. You need a disposition code for each complaint, whether or not the complaint is verified.
- B. Each complaint has only one disposition code. You must choose the best one.

- C. When choosing a disposition code, always follow the direction of the resident. If you cannot get direction from the resident, and there is no legal representative, or the representative's direction is inconsistent with the previously expressed wishes of the resident, then take direction from the complainant.
- D. Remember, disposition codes record outcomes, not activities. You may perform many activities when resolving and investigating a complaint, but there is only one outcome.

Closed Case: A case is closed when none of the complaints within the case require any further action on the part of the representative and every complaint has been assigned the appropriate disposition code.

Disposition Codes:

- A. Legislative or Regulatory Action Required – Policy, regulatory or legislative change needed to resolve.
- B. Not Resolved – Problem not corrected or change that was made was not to satisfaction of resident in any way.
- C. Withdrawn – Complaint withdrawn at the request of the resident, complainant, or discontinued by the representative or if a significant portion was resolved prior to withdrawal, record as partially resolved.
- D. Referred for resolution and:
 - 4. Final disposition not obtained
 - 5. Other agency failed to act
 - 6. Agency did not substantiate
- E. No action needed or appropriate – Determined after representative investigation.
- F. Partially resolved – Complaint addressed in part to the satisfaction of the resident or complainant, some problem remained.
- G. Resolved – Resident is satisfied with the outcome.

Consultation: A consultation is providing information and assistance to an individual or a facility.

- A. It does not involve investigating and working to resolve complaints (i.e., a consultation is not a case).
- B. If the representative refers someone with a concern to another agency and is not actively involved in investigating and working to resolve the problem, it is not a case or complaint. However, it can be counted as a consultation.

PROCEDURE FOR DETERMINING WHETHER A REFERRAL IS A CASE OR A CONSULTATION:

- I. Create case file or program activity from intake information to complete documentation entry.

II. Investigation

A. Performing intake

Interview resident/tenant or complainant via telephone or in-person

1. Assess resident/tenant situation, complaint and desired outcome
2. Gather evidence
3. Obtain consent to pursue complaint. When a resident/tenant is able to express his/her wishes even if the resident/tenant has limited decision-making capacity, the Representative may proceed with casework.
4. Where a resident/tenant is unable to communicate consent or express his/her wishes to have a Representative work on a complaint, the Representative shall:
 - a. Seek direction from the resident's representative or tenant's legal representative, as long as that representative is not implicated in the complaint.
 - b. Seek evidence from family, friends, and other sources that indicates what the resident/tenant would have desired and work to ensure that his/her health, safety, welfare and rights are protected.
5. Where a resident/tenant is unable to communicate consent or express his/her wishes to work on a complaint and has no resident representative available, the Representative shall:
 - a. Seek evidence to indicate what outcome the resident would have communicated and in the absence of evidence to the contrary, shall assume the resident wishes to have the resident's health, safety, welfare and rights protected and shall work to accomplish that outcome.
 - b. Determine whether complaint was resolved to satisfaction of the complainant.

B. Goals:

1. Define problem(s) and/or issues
2. Determine if immediate intervention is needed, with resident/tenant/representative permission
 - a. assure safety of resident/tenant
 - b. prevent further progression of dangerous situation
3. Identify facts necessary to evaluate the validity of the complaint
4. Assess the appropriateness and effectiveness of potential outcomes or solutions in meeting the complainant's desired end result

C. Resident/Tenant-focused investigation: This should take into account issues of resident/tenant, familial, social and personal history as well as relevant medical information and may include interviews.

1. Identify all parties to the issues
 - a. Is there a person with legal or fiduciary responsibility for resident/tenant?

- b. Is there any family/significant other involvement?
 - c. Is there facility staff or other provider involvement?
 - d. Is the regulatory or any other government agency implicated?
 - e. Are other health care providers involved?
 - f. Are any other parties/agencies involved?
 - g. Is the resident/tenant their own decision maker?
 - 2. Ascertain the specific nature of incident/issue
 - a. Impact on resident/tenant
 - b. Response from facility or provider to incident
 - i. nature of response
 - ii. timeliness
 - iii. outcomes
 - 3. Note specific dates / times
 - 4. Note specific location of incident(s)
 - a. Is the incident one-time only or reoccurring?
 - b. Is the incident part of a continuing pattern?
 - 5. Validation of facts
 - a. Assess facts; not motives
 - b. Maintain objectivity in evaluating information
 - 6. How can the Representative help resolve the situation?
 - 7. Determine need for on-site investigation
- D. Conducting an on-site visit
- 1. Set up a visit at the request of resident/tenant, family, and/or facility/program. Visits are generally unannounced but may be announced. (Iowa Code § 231.42(5)); 42 USC § 3058(g)(b))
 - 2. Purpose of visit (Iowa Code § 231.42(5)(a)-(d))
 - a. meet with resident/tenant
 - i. determine the resident's perception of the complaint and if informed consent can be communicated;
 - ii. determine the resident's wishes with respect to investigation and resolution;
 - iii. advise the resident of his or her rights; and
 - iv. work with the resident to develop an approach.
 - b. fact finding
 - c. education
 - d. intervention / resolution of problem with resident/tenant/representative permission

3. Interview family or other involved agencies/parties as needed or requested
 4. Interview long-term care facility staff
 - a. Administrator, Appropriate Department Head
 - b. Other staff who may have relevant information
 5. Resident/Tenant records may include medical, personal/social, financial/payment information (Iowa Code § 231.42(6); 42 USC § 3058(g)(b)). Representative shall have access to review the records of a resident/tenant, if—
 - a. the representative has the permission of the resident/tenant, or the legal representative of the resident/tenant (42 USC § 3058(g)(b)(1)(B)(i)(I)); or the resident/tenant is unable to consent to the review and has no legal representative (42 USC § 3058(g)(b)(1)(B)(i)(II)); or
 - b. access to the records to investigate a complaint if—
 - i. a legal guardian of the resident refuses to give the permission (42 USC § 3058(g)(b)(1)(B)(ii)(I)); and
 - ii. a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident (42 USC § 3058(g)(b)(1)(B)(ii)(II)); and
 - iii. the representative obtains the approval of the Ombudsman (42 USC § 3058(g)(b)(1)(B)(ii)(III));
 6. Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under the HIPAA privacy rule, the long-term care ombudsman program is considered a “health oversight agency”. A health oversight agency is allowed access to otherwise confidential health care information, with or without authorization of the resident, tenant or his/her legal representative. HIPAA does not preclude release by covered entities (long-term care facilities, for example) of a resident/tenant private health information or other identifying information to the Office, including but not limited to resident’s/tenant’s medical, social, or other records, a list of resident/tenant names and room numbers or information collected in the course of a state or federal survey or inspection process.
- E. Conclude investigation (not necessarily conclude the case)
1. Review case file information to date
 2. Make follow up communications to clarify / verify information
 - a. phone calls and/or visit
 - b. documentation
 3. Assess potential for solution
 - a. develop alternatives / recommendations which are most favorable to resident/tenant
 - b. discuss options/alternatives/recommendations with the resident/tenant and/or complainant as appropriate
 - c. communicate to other parties as appropriate

- d. seek consensus for resolution
- e. develop plan for follow up

F. Determine satisfaction (conclude the case)

1. Attempt to resolve complaints to the satisfaction of the resident/tenant regardless of the source of the complaint. Where a resident/tenant is unable to communicate his/her wishes, develop an approach with the resident/tenant's legal representative or the complainant, if consistent with the rights and known or assumed wishes of the resident.
2. Where the resident is unable to communicate informed consent and has no resident representative, the Representative of the Office shall determine whether the complaint was resolved to the satisfaction of the complainant.
3. The complaint or case may be closed when any of the following occurs:
 - a. The complaint has been resolved to the resident/tenant's satisfaction.
 - b. The Representative has determined, after investigation, that the complaint:
 - i. Cannot be verified; or
 - ii. Was not made in good faith.
 - c. Further activity by the Representative is unlikely to produce satisfaction for the resident.
 - d. The complaint is not appropriate for Representative activity.
 - e. The Representative anticipates no further response regarding the complaint from the agency to which the referral was made.
 - f. The resident/tenant requests that Representative activity end on the complaint

G. Further actions

1. Complete documentation in documentation database

Policy No.: Omb-4
Effective Date: Immediately

TITLE: Complaint Referrals

STATEMENT of POLICY:

Representatives will make necessary referrals to other entities per the procedure below.

PROCEDURE:

Representatives should acquire knowledge of the available resources to provide aid and assistance in resolution of long-term care problems and inquiries.

- I. Based on an initial intake or after investigation of a complaint, the Representatives will assess the potential need for a referral to a different agency.
 - A. The Representative may refer a complaint to another agency with the consent of the resident/tenant or resident's/tenant's legal representative.
 - B. The Representative shall encourage a resident/tenant or complainant to make a referral directly to the proper agency or entity.
- II. Referral by a Representative to other agencies may be made in writing or by telephone, depending on the receiving agency's protocol.

Utilize the Office form when referring a complaint to the Department of Inspections and Appeals. See [Attachment C](#).
- III. The Representative shall determine the need for follow up.
- IV. If making a referral in writing, a carbon copy shall be sent to the Ombudsman. If the referral is made verbally, the Representative shall inform the Ombudsman and/or lead worker during bi-weekly touch base calls or via email.

Policy No.: Omb-5.1
Effective Date: Immediately

TITLE: Individual Conflicts of Interest

Statutory References: OAA 712(f)
Iowa Code §68B

STATEMENT of POLICY: All individuals who serve as a Representative of the Office will be free of conflicts of interest.

Definitions:

Candidate: An individual applying for an open position within the office and seeking to serve as a Representative.

Immediate Family: A member of the household or a relative with whom there is a close personal or significant financial relationship.

Gift: A rendering of anything of value in return for which legal consideration of equal or greater value is not given and received.

Significant Value: Gifts or gratuities valued at more than \$3.00.

Individual Conflict of interest includes:

- A. Employment of the Representative, candidate or a member of the Representative's or candidate's immediate family by a long-term care facility, by the owner or operator of any long-term care facility, by an association of long-term care facilities or by a managed care organization within the previous one year
- B. Participation in the management of a long-term care facility or managed care organization by the Representative, candidate or a member of the Representative's or candidate's immediate family within the previous one year
- C. Ownership, operational or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility, managed care organization or long-term care service by the Representative, candidate or member of the Representative's, or candidate's immediate family within the previous two years
- D. Involvement in the licensing, surveying or certifying of a long-term care facility, managed care organization or provision of a long-term care service by the Representative, candidate or a member of the Representative's or candidate's immediate family within the previous one year
- E. Receipt of, or right to receive remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility or a managed care

organization by the Representative, candidate or a member of the Representative's, candidate's immediate family within the previous two years

- F. Acceptance of any gifts or gratuities of significant value to a Representative, candidate or a member of the Representative's, or candidate's immediate family from a long-term care facility, a managed care organization, or a resident/tenant or a resident's/tenant's representative within the previous two years
- G. Acceptance of money or any other consideration from anyone other than an entity approved by the Ombudsman for the performance of the Long-Term Care Ombudsman program duties within the previous two years
- H. Provision of services with an outside employer that conflict with the duties of a Representative within the previous one year
- I. Provision of services to residents/tenants of a facility in which a Representative, candidate or a member of the Representative's or candidate's immediate family currently resides or has resided within the previous two years
- J. Provision of guardianship or other surrogate decision-maker services by the Representative, candidate or a member of the Representative's or candidate's immediate family for a resident/tenant residing in a facility within the previous one year
- K. Residence of the Representative, candidate or a member of the Representative's or candidate's immediate family in a facility within the previous two years
- L. Participation in activities which negatively affect the Representative's or candidate's ability to serve residents/tenants/Medicaid members or which are likely to create a perception that the Representative's or candidate's primary interest is other than as an advocate for the residents/tenants/members within the previous one year

PROCEDURE:

- I. The Office will follow these processes to identify and remove conflicts of interest and to identify and eliminate relationships that may cause a conflict of interest.
 - A. All individuals who serve as a Representative or candidates will be screened to determine if a conflict of interest occurs.
 - 1. During the interview process, the Ombudsman will ask all candidates if they have any conflicts of interests.
 - 2. Prior to extending a job offer, the candidate will complete the Conflict of Interest Form. (See [Attachment E.1](#): Individual Conflicts of Interest Form)
 - 3. On an annual basis, during each Representative's performance review, the Conflicts of Interest form will be reviewed by the Ombudsman and Representative to determine if a conflict of interest exists.
 - 4. A Representative shall report any new conflicts of interest to the Ombudsman for review within 10 business days from when the Representative is aware of the conflict of interest.

- a. If a Representative fails to report a conflict of interest, the Ombudsman may take action according to the State of Iowa's personnel policies.
- II. If a conflict of interest exists, the Ombudsman will review the conflict of interest to determine if it can be removed or if a waiver can be granted.
 - A. The Ombudsman will review the nature, scope, and extent of the conflict of interest and shall propose a remedy, if any is needed.
 - B. Any proposed remedy shall be in writing using the Waiver for Individual Conflicts of Interest Form and reveal the nature, extent, and potential impact of the conflict of interest. (See [Attachment E.2](#) - Waiver for Individual Conflicts of Interest)
 - C. Any remedy shall neutralize the conflict of interest.
 - D. Any remedy granted shall remain in effect for as long as the conflict continues to exist to the same extent as reported and for as long as the remedy continues to work or is necessary.
 - E. When a decision for a remedy is pending from the Ombudsman, the Representative shall be assigned duties that do not pose a conflict, as outlined by the Ombudsman.
 - I. Examples of potential remedies may include but are not limited to:
 - A. Providing another role for a Representative until the conflict is resolved.
 - B. Ensuring Representative responsibilities are not in a facility where the Representative was previously employed for one year.
 - C. Ensuring Representative responsibilities are not in a facility where an immediate family member is employed or resides.
 - D. The conflict and remedies will be reported to ACL/AoA through the National Ombudsman Reporting System (NORS).
- III. In determining whether a Representative's professional participation in community groups, associations, or other activities constitutes a conflict of interest, the following questions shall be considered:
 - A. Will the Office benefit from a representative being involved in this activity?
 - B. Will the Representative be able to represent and assert the views of long-term care residents/tenants in this activity?
 - C. Will the role of the Representative benefit residents/tenants?
 - D. How will participating in the activity affect the public perception and the residents'/tenants' perspective of the Office?
 - E. Will the Representative be put in a position of participating in a decision about a resident/tenant without the resident's/tenant's involvement or permission?

Policy No.: Omb-5.2
Effective Date: Immediately

TITLE: Organizational Conflicts of Interest

Statutory References: 45 CFR 1324.21(a)

Statement of Policy: The Office will be free of conflicts of interest.

Definitions:

State Agency – Iowa Department on Aging

Organizational Conflicts of Interest includes placement of the Office in an organization that:

- A. Licenses, surveys or certifies long-term care facilities;
- B. Serves as an association of long-term care facilities;
- C. Has ownership or investment interest or receives grants or donations from a long-term care facility;
- D. Has commissioners with any ownership, investment or employment interest in long-term care facilities;
- E. Provides long-term care to residents of long-term care facilities;
- F. Provides long-term care coordination or case management for residents of long-term care facilities;
- G. Provides long-term care services;
- H. Sets reimbursement rates for long-term care facilities;
- I. Provides adult protective services;
- J. Determines eligibility for Medicaid or other public benefits for residents of long-term care facilities;
- K. Conducts pre-admission screenings;
- L. Makes decisions on admissions and discharges from long-term care facilities;
- M. Provides guardianship, conservatorship, or other fiduciary or surrogate decision making services for residents of long-term care facilities.

PROCEDURE:

- I. The Office will work with the State Agency to identify and remove all organizational conflicts of interest. Specific internal protocols for referrals, sharing/non-sharing of case information and other perceived appearances of conflict of interest will be addressed in the Memorandum of Understanding (MOU) between the State Agency and the Office.

Currently, the Office is co-located in the same State Agency as the Office of Public Guardian. See [Attachment E.3](#) – Organizational Remedy.

- II. The conflict and remedies taken will be reported to ACL/AoA through the National Ombudsman Reporting System (NORS).

Policy No.: Omb-6
Effective Date: Immediately

TITLE: Information and Assistance

STATEMENT of POLICY: As permitted by the time constraints of direct resident/tenant advocacy and other program activities, representatives of the Office shall provide timely and accurate information and assistance to members of the public on issues related to long-term care.

PROCEDURE:

- I. Information provided to persons receiving long term care services or considering entry into the long term care system via telephone, e-mail, mail, or in person.
 - A. Requests for information will be prioritized by Ombudsman and/or lead worker so as not to interfere with the primary responsibilities of staff of the Office.
 - B. Requests for information shall receive a timely response.
 - C. Response may consist of a referral to other sources of information such as:
 1. Senior Health Insurance Information Program (SHIIP)
 2. Mental Health Advocates
 3. Department of Human Services (DHS)– Medicaid or Adult Protective Services (APS)
 4. Area Agencies on Aging (AAA)
 5. Department of Inspections and Appeals (DIA)
 6. Disability Rights Iowa (DRI)
 7. Iowa Legal Aid/Legal Hotline for Older Iowans
 8. Home, Inc.
 9. Iowa Insurance Division
 - D. Response to requests for information on long-term care facilities is appropriate if available data is accurate and the Representative does not offer a preference or endorsement of one long-term care facility over another. All responses to requests for information on long-term care facilities shall be in writing and shall include disclaimer language as follows: The Office of the State Long-Term Care Ombudsman is not able to recommend a long-term care facility or make comments about care. For additional information about a specific long-term care facility please contact the Iowa Department of Inspections and Appeals.
- II. Information provided to organized groups

Representatives shall discuss organized groups' requests for presentations with Ombudsman and/or lead worker to determine Representative's ability to grant the group's request. If the request is agreed to:

- A. Before the presentation
 - 1. determine the intended audience and number anticipated
 - 2. ensure the topic is relevant to the scope of services provided by the Office
 - B. After the presentation
 - 1. follow up with the participants who have questions and/or comments
 - 2. distribute business cards and other relevant written resources
- III. Consultation to facility is providing information and assistance to a long-term care facility employee via telephone, e-mail, mail, or in person.
- A. Requests for information will be prioritized by Ombudsman and/or lead worker so as not to interfere with the primary responsibilities of staff of the Office.
 - B. Requests for information shall receive a timely response.
- IV. Media requests shall be referred to the Ombudsman.

Policy No.: Omb-7.1
Effective Date: Immediately

TITLE: Confidentiality

Statutory References: 42 U.S.C. 3058(g)
Iowa Code § 231.42(12)

STATEMENT of POLICY: A Representative of the Office shall maintain confidentiality at all times and shall not share confidential information without informed consent.

A Representative has access to a resident's/tenant's personal, medical, financial, and other information and shall maintain confidentiality of information at all times in accordance with state and federal laws. Keeping information confidential promotes trust, helps maintain the role of the Representative as a professional advocate, protects a resident's/tenant's right to personal privacy and confidentiality, and encourages a resident/tenant/complainant to confide in a Representative even if he/she does not want to file a complaint.

DEFINITIONS:

Confidential information may be verbal or written and includes but is not limited to:

- the name and address of the resident/tenant/complainant;
- information about the resident's/tenant's medical condition;
- the resident's/tenant's medical history;
- the resident's/tenant's social history, which includes occupation, residences and information about a resident's/tenant's family;
- the resident's/tenant's source of payment;
- information about the resident's/tenant's personal life; and
- information from a conversation between a resident/tenant and a representative of the Office.

Confidential information does not include:

facility policies and procedures; or
statistical data about residents or complaints filed with the Office.

Confidentiality: the state of having the dissemination of certain information restricted (Black's Law Dictionary)

Informed Consent: A person's agreement to allow something to happen, made with full knowledge of the risks involved and the alternatives. (Black's Law Dictionary)

PROCEDURE:

- I. Upon beginning employment and on an annual basis, a Representative shall sign and abide by the Confidentiality Agreement. (See [Attachment M](#): Confidentiality Agreement Form)
- II. During the course of employment, a Representative shall not disclose to any party outside of the Office whether a complaint has ever been received by or about an individual; the identity of a resident, tenant, or complainant; any identifying information or program records; the content of a complaint or investigation, or the outcome of a complaint or investigation without informed consent.
 - A. Disclosure of information regarding specifics of an activity and/or casework
 1. When carrying out normal job duties related to specifics of an activity or casework, a Representative may communicate with persons and/or entities to discuss concerns, needs and other information, upon receiving the resident's, tenants, and/or complainant's verbal informed consent. Such consent shall be documented contemporaneously in the approved documentation system by a Representative in accordance with such procedures.
 2. For internal Office communication of a complaint, case, or activity where confidential information is shared by e-mail, the Representative shall mark the correspondence as a confidential communication within the subject line.
 3. Disclosure of information about a case to news media; attorneys; agencies that act as funding sources or that provide oversight of the Office; or any other third party is prohibited unless:
 - a. There is consent to share information about the case from the resident/tenant/legal representative and/or the complainant on whose behalf the program was advocating. See [Attachment H.2](#): Consent to Disclose Involvement Form; and
 - b. Consent from any individual whose identity would be revealed has been obtained.
 4. When a request is received by a Representative to release confidential information, follow the procedure outlined in Ombudsman Policy 19: Disclosure of Files and Records maintained by the Office. ([See Omb-19](#))
 - B. Confidentiality restrictions should not impair the Office from seeking advice from a Title III/VII funded legal assistance program; other legal services programs, or attorneys. A general overview of the issue may be presented. Anonymity shall be preserved in discussing cases when a Representative does not have consent to release identifying information.
- III. After leaving employment, Representatives continue to have a responsibility to protect confidential information and shall maintain confidentiality. Upon de-designation, former Representatives must return all case notes to the Ombudsman and relinquish designation

letters and identification. Access to the approved documentation system will be removed by the Ombudsman.

- IV. If the Ombudsman or designee determines that disclosure of identifying information located within the Office files, records, or other confidential information may be appropriate and the resident, tenant, and/or complainant can give **informed consent**, the following actions will be taken:
 - A. Contact the Representative of the Office who received the request. The Representative shall reach out to the resident, tenant, or complainant to obtain informed consent for the disclosure. The resident, tenant, or complainant must communicate such consent in writing or through the use of auxiliary aids and services. If the resident, tenant, or complainant is willing and able to provide written consent, the Representative will obtain such consent on the *Consent and Authorization* form (See [Attachment H.1](#): Consent and Authorization Form) and forward to the Ombudsman or designee;
 - B. If the resident, tenant or complainant is unable to provide informed consent in writing, but is willing and able to give consent orally, visually, or through the use of auxiliary aids and services, the Representative of the Office shall document such consent on the *Consent and Authorization* Form (See [Attachment H.1](#): Consent and Authorization Form) and forward to the Ombudsman or designee.
- V. If the Ombudsman or designee determines that disclosure of identifying information located within the Office files, records, or other confidential information may be appropriate and the resident, tenant, and/or complainant **is unable to communicate informed consent**, the following actions will be taken:
 - A. Contact the Representative of the Office who received the request. If, the representative of the resident, tenant, or complainant appears to be acting in the best interests of the resident, tenant or complainant and is willing and able to provide written consent, the Representative of the Office will obtain such consent on the *Consent and Authorization* Form (See [Attachment H.1](#): Consent and Authorization Form) and forward to the Ombudsman or designee;
 - B. If the representative of the resident, tenant or complainant appears to be acting in the best interests of the resident, tenant or complainant and is unable to provide informed consent in writing, but is willing and able to give consent orally, visually, or through the use of auxiliary aids and services, the Representative of the Office shall document such consent on the *Consent and Authorization* Form (See [Attachment H.1](#): Consent and Authorization Form) and forward to the Ombudsman or designee.

- C. If after discussion with the Representative of the Office and review of Office files, records, or other confidential information, the Ombudsman or designee has reason to believe the best interests of the resident, tenant, or complainant would not be served, disclosure may be denied.
- D. If the resident, tenant, or complainant does not have a representative, the Ombudsman or designee will follow the protocol outlined in [Attachment I.2](#): Criteria to Guide Disclosure and complete the Checklist in [Attachment I.3](#).

NOTE: *The identity of and confidential information related to other residents, tenants, or complainants for whom informed consent to disclose has not been received will be redacted.*

- VI. If the Ombudsman or designee determines that disclosure of identifying information located within the Office files, records, or other confidential information is not appropriate, the requesting party will be notified of that decision.

Policy No.: Omb-7.2
Effective Date: Immediately

TITLE: Confidentiality

STATEMENT of POLICY: A Representative of the Office shall maintain confidentiality of internal office communications at all times and shall not share confidential information without consent by the Ombudsman. Keeping internal office communications confidential promotes trust and credibility in the Office.

DEFINITIONS:

Confidential information may be verbal or written and includes but is not limited to:
Information from internal office communications

Confidentiality: the state of having the dissemination of certain information restricted (Black's Law Dictionary)

Informed Consent: A person's agreement to allow something to happen, made with full knowledge of the risks involved and the alternatives. (Black's Law Dictionary)

PROCEDURE:

- I. Upon beginning employment and on an annual basis, a Representative shall sign and abide by the Confidentiality Agreement. (See [Attachment M](#): Confidentiality Agreement Form)
- II. During the course of employment, a Representative shall not disclose information from internal office communications without obtaining consent from the Ombudsman.

Policy No.: Omb-8
Effective Date: Immediately

TITLE: Non-complaint related visits by Mobile Local Ombudsman

Statutory References: Iowa Code § 231.42(3) (c)
Iowa Code § 231.42(5)
42 U.S.C 3058g (a) (3) (D)
42 U.S.C 3058g (a) (5) (B) (ii)
45 CFR 1324.11(e)2(i)
45 CFR 1324.13
45 CFR 1324.19

STATEMENT of POLICY: In order to establish and maintain a visible presence in long-term care facilities, Mobile Local Ombudsman will make periodic visits to long-term care facilities. Visits are typically unannounced. Visits may be made for the purpose of providing outreach services, a request for consultation, education to residents/tenants, to observe daily routines, meals and activities, and work to resolve complaints if any are identified during the visit.

ELEMENTS:

On-site visits to long-term care facilities provide the Mobile Local Ombudsman with the opportunity to complete required functions; monitoring facility compliance with federal and state laws; observing facility practices, procedures, and quality of care provided; providing information to facility staff, residents, tenants, and family, and facilitating resident access to the Long-Term Care Ombudsman Program.

- I. The Mobile Local Ombudsman shall identify him or herself.
 - A. The Mobile Local Ombudsman shall wear the proper Office issued state-issued name badge.
 - B. The Mobile Local Ombudsman must identify themselves to the staff, but is not required to disclose the purpose for the visit.
 - C. The Mobile Local Ombudsman shall attempt to follow up with a long-term care facility employee upon exiting the facility.
- II. Mobile Local Ombudsman shall have immediate, unrestricted access to residents as required by Iowa Code 231.42(5) and 42 USC 3058g (b) & (j)
 - A. The Mobile Local Ombudsman may converse with residents/tenants, staff, and visitors to inquire as to the care and treatment of residents/tenants in the long-term care facility. The Mobile Local Ombudsman may speak with as many residents/tenants as is practicable to identify individuals who may have complaints or problems which should be addressed.

- B. Mobile Local Ombudsman must be free to move about the long-term care facility independently and without an escort in order to alleviate confidentiality concerns of residents/tenants. If an officer, owner, director, or employee of a long-term care facility intentionally prevents, interferes with, or attempts to impede the duties of a Mobile Local Ombudsman, the Mobile Local Ombudsman impacted shall report the interference to the Ombudsman who will determine what action is appropriate.
- Monetary civil penalties- The director of the State Agency, in consultation with the Ombudsman, may impose a monetary civil penalty of not more than \$1,500 for each violation on an officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the duties of a Representative of the Office. If the director imposes a penalty for a violation under this rule, no other state agency shall impose a penalty for the same interference violation. As required by Iowa Code § 231.42(7); Iowa Administrative Code 8.3 through 8.6 and 42 U.S.C 3058g (j)
- C. The Mobile Local Ombudsman may observe the condition of the facility and make recommendations as appropriate. [Attachment B-1](#) – Facility Checklist and [Attachment B-2](#) – Observation Tool may be utilized.
- D. To document non-complaint related visits, Mobile Local Ombudsman shall indicate such visit as a “resident visitation (non-complaint related)” activity in the approved documentation system.

Policy No.: Omb-9
Effective Date: Immediately

TITLE: Record Retention

Statutory References: Older Americans Act Reauthorization Act of 2016, Public Law No: 114-144
45 CFR 1324.13(d) - Functions and responsibilities of the State Long-Term Care Ombudsman
45 CFR 75.361 - Retention Requirements for Records
Iowa Code § 305 – State Records and Archives
671 Iowa Administrative Code 1 – Records Commission

STATEMENT of POLICY: The records of the Office which relate to a case, complaint, consultation, investigation, non-complaint related visits, and advocacy functions of the Office and which contain personally identifiable information shall be maintained in a secure and confidential manner.

Every record made or received under the authority of, or coming into the custody, control, or possession of a Representative of the Office, in connection with the transaction of official business of state government, and having sufficient legal, fiscal, administrative, or historical value, shall be retained in accordance with Iowa law and any applicable federal grant or program requirements for the Office.

PROCEDURE:

General storage and destruction of records relating to casework or Office/Representative activities

- A. Records shall be scanned and attached electronically to the case file. Once saved electronically, the hard copy of these records shall be destroyed by shredding or placing records in a destruction container to protect confidentiality.
- B. All records that are not scanned and documented electronically shall be kept in a locked file cabinet by the Representative or at the Office.
- C. Records shall be retained and handled by the Representative or at the Office in accordance with the State of Iowa's record retention schedule.
- D. Other correspondence not part of a case file or client record shall be handled in accordance with the State of Iowa's record retention schedule.

Policy No.: Omb-10
Effective Date: Immediately

TITLE: Advocacy for Complaint Resolution

Statutory References: Iowa Code § 231.42(3) (a)
42 U.S.C 3058g (a)
17 Iowa Administrative Code 8.7 (11)

STATEMENT of POLICY: Representatives of the Office may utilize accepted advocacy techniques as presented in office training sessions, learned in other forums, or as developed in the field to assist in complaint resolution. Techniques may include but are not limited to the following: problem solving, advocacy, negotiation and referral to other agencies.

PROCEDURE:

- I. Complete initial intake and investigation of complaint as per Office Policies [OMB-2](#) & [OMB-3](#).
- II. Advocacy techniques may include the following as determined to be potentially effective by analysis of an individual situation. It may be the case that an issue, once defined and addressed, may indicate a need for a different approach.
 - A. Problem solving
 1. Simple problem solving-Involves speaking with the resident/tenant and discussing possible resolutions to the problem.
 2. Collective problem solving-Involves asking staff or other parties, with the resident's/tenant's permission to participate in the discussion in order to resolve the problem.
 3. Education and empowerment-Involves providing education and skills to the resident/tenant so that he/she can solve the problem without direct intervention of the Representative.
 - B. Direct Advocacy
 1. Represent the interest of resident/tenant in direct communication with long-term care facility staff, resident/tenant's representative or other involved agencies/parties with resident/tenant/representative consent.
 2. Communicate the Office position.
 - C. Organizational advocacy is oriented to a specific issue and may include:
 1. Participate in resident, tenant and family councils
 2. Involve citizen organizations
 3. Refer to Disability Rights Iowa

D. Mediation and Negotiation

1. Determine whether or not mediation or negotiation will be effective as a means of resolving the dispute.
2. Determine if there is a regulatory or statutory solution which takes precedence.
3. Determine if the issue affects others in addition to the complainant.
4. Determine if there are parties other than the resident/tenant who need to be involved.

E. If negotiation is appropriate:

1. Meet individually with parties to discuss issues.
2. Arrange for initial meeting.
 - a. define issue(s)
 - b. allow parties to give their perspectives on the issue(s)
 - c. develop action plan to the satisfaction of the resident/tenant
 - d. discuss timeframe for action plan to be implemented
 - e. set follow-up meeting if necessary
3. Conduct follow-up meeting (or second part of initial meeting)
 - a. further discuss perspectives on issues
 - b. seek resolution of the resident's/ tenant's concerns

F. Discussions with management, ownership, or corporation staff. Work with the Ombudsman as needed.

III. Advocacy techniques used and outcomes should be made a part of the Representative's record using the documentation database.

- A. briefly discuss advocacy techniques used
- B. associate any outcome with the facts

Policy No.: Omb-11
Effective Date: Immediately

TITLE: Participation in Administrative Proceedings and Internal Appeals Process

Statutory References: 481 Iowa Administrative Code 58.40(1) (f) (discharge)
481 Iowa Administrative Code 57.36 (1) (f) (discharge)
481 Iowa Administrative Code 69.24(1) (c) (transfer)
481 Iowa Administrative Code 68.15 (transfer)
481 Iowa Administrative Code 10 (contested case hearings)
42 USC 3058g (a) (3) (E) (OAA)
42 USC 3058g (a) (5) (B) (IV) (OAA)
42 USC 1396r(C) (2) (transfer and discharge rights)
42 USC 1395i-3(C) (2) (transfer and discharge rights)
42 CFR 483.15 (admission, transfer, discharge rights)
42 CFR 1324.19(a)(4) (representing interests)

STATEMENT of POLICY:

The connection between the Representative of the Office and the resident/tenant is not a lawyer / client relationship, but rather it is that of an advocate assisting the resident/tenant/legal representative to adequately and effectively prepare for and present a position on the issues before an administrative law judge (ALJ). A Representative may appear with residents, tenants, or their legal representative at administrative proceedings or in the internal assisted living programs or elder group home appeals process. Further, it is the responsibility of the Representative, with the consent of the resident, tenant or legal representative, to assert the resident's/tenant's rights if the resident/tenant is unable to do so, within the scope of Representative's authority as specified in law.

Definitions:

Administrative or evidentiary hearing: refers to any contested proceeding before an Administrative Law Judge (ALJ) serving as the adjudicator, which affects the legal rights, duties, or privileges of a party and includes all affected parties. A hearing is conducted by the ALJ who is in a position to make a ruling. A hearing may take place in person, by phone or by other electronic media.

Administrative Law Judge (ALJ): means the person who presides over contested cases and other proceedings.

PROCEDURE:

- I. Administrative Hearings in which the Representative may be involved include:
 1. Appeal of Involuntary Discharges or Transfers
 2. Medicaid Appeals
 3. Pre-Admission Screening and Resident Review (PASRR) Appeals
- A. When notified of an impending hearing or proposed appeal of a decision, the Representative should:
 1. Determine if the resident or tenant would like assistance from the Representative.
 2. Determine if the resident or tenant is represented by private legal counsel.
 - a. If resident/tenant is represented and a request is made for a Representative's involvement, seek consent of the resident/tenant or his/her legal representative to contact and work with the resident's/tenant's private legal counsel, to the resident's/tenant's benefit.
 - b. If resident/tenant is not represented, determine if the resident/tenant/legal representative wishes to obtain private representation and, if necessary, refer the resident/tenant/legal representative to resources where legal counsel may be found. The Legal Hotline for Older Iowans may be used as a resource for resident/tenants age 60 and older seeking legal counsel. Persons under the age of 60 may utilize Iowa Legal Aid or Disability Rights Iowa.
- B. If the Representative is to attend the hearing as an advocate, , the Representative may:
 1. Define the issue to be decided according to the resident/tenant/legal representative preferred outcome
 2. Determine the Internal Appeals process for the Assisted Living Program or Elder Group Home, if applicable.
 3. Consult with the resident/tenant/legal representative to ascertain the position to be taken and
 - a. define the nature and limits of resident/tenant/legal representative's stated wishes
 - b. acknowledge respect for resident's/tenant's best interest
 - c. inform resident/tenant/legal representative of the administrative proceeding process or of the internal assisted living program or elder group home appeal process
 4. Consult with Ombudsman as needed.

5. If participating in the administrative hearing, the Representative may notify the ALJ of involvement prior to the hearing to:
 - a. define the role of the Representative
 - b. request copies of all hearing documents, if needed
6. Obtain or ask the resident/tenant/legal representative to obtain all relevant documentation needed to support position from:
 - a. the resident/tenant/legal representative
 - b. the long-term care facility, assisted living program or elder group home
 - i. Medical/social records: nurse's notes, social work notes, care plan, Minimum Data Set (MDS) records, PASRR results, medication records, financial information, physician order/progress notes, etc.
 - ii. Administrative records: financial, policies and procedures
 - c. others as necessary
7. Review the documentation and offer assistance to the resident/tenant/legal representative to develop his/her position statement.
8. Encourage and prepare the resident/tenant/legal representative to present his/her own position, according to resident/tenant/legal representative desire and ability.
9. Arrange a meeting place with speaker telephone access for the hearing, if necessary.

D. At the Proceeding

1. Identify self to Administrative Law Judge (ALJ)
 - a. Define the Representative as a non-attorney advocate referring to 42 USC 3058g (a) (3) (E) and Iowa Administrative Code listed above.
 - b. Clarify the role of the Representative as an advocate for the resident's/tenant's wishes, and not as legal representation.
2. When speaking on behalf of resident/tenant/legal representative, the Representative may introduce the argument according to procedure outlined by ALJ.
 - a. The Representative may answer questions when asked by the ALJ or other parties.
 - b. Introduce ideas or suggestions to support the resident's/tenant's position.

II. Internal Appeals Process for Assisted Living Programs/Elder Group Homes

- A. Introduce role of the Representative as an advocate for the tenant's wishes.
- B. With the tenant's/legal representative's input and permission, introduce ideas or suggestions to allow for the tenant to remain at the program or home.

- C. Determine when the tenant will be notified of the outcome of the appeal and if there will be further appeal rights.

III. Review outcome with resident/tenant/legal representative

- A. The decision for an ALJ hearing is typically delivered via mail or electronically to secure e-mail. The decision for an Internal Appeal Process is according to the Assisted Living Program or Elder Group Home's policy or procedure.
- B. Explain the decision to the resident/tenant/legal representative.
- C. If the decision is not in resident/tenant/legal representative's favor, determine if appeal of decision to next level is desired by resident/tenant/legal representative or necessary to protect the health, safety, welfare or rights of resident/tenant/legal representative.
- D. Encourage the resident/tenant/legal representative to contact private legal counsel for advice on how to proceed, if needed.
- E. Assist with the appeal of ALJ Proposed Notice of Decision or Assisted Living Program internal appeal decision where appropriate after consultation with Ombudsman.
- F. Determine if the resident/tenant/legal representative wishes to try to obtain private representation and, if necessary, refer resident/tenant/legal representative to resources where legal counsel may be found. The Legal Hotline for Older Iowans may be used as a resource for residents/tenants aged 60 and older seeking legal counsel. Persons under 60 may utilize Iowa Legal Aid or Disability Rights Iowa.

Policy No.: Omb-12
Effective Date: Immediately

TITLE: Activities related to issues of Substitute Decision Making

Statutory References:

Guardianships/Conservatorships	Iowa Code § 633, Iowa Code 135C.24 (1)
Living Will / Out of Hospital DNR orders	Iowa Code § 144A
Durable Power of Attorney for Health Care	Iowa Code § 144B
Financial Power of Attorney	Iowa Code § 633B, Iowa Code 597.5
Final Disposition Act	Iowa Code § 144C
Physician Orders for Scope of Treatment	Iowa Code § 144D
Substitute Decision Maker Act	Iowa Code § 231E

STATEMENT of POLICY: When necessary, the Office shall provide information, to residents, tenants, their family members, long-term care facilities, as well as others on issues related to substitute decision making. In all cases, the Representative remains an advocate only for the resident or tenant.

Definitions:

Agent: A person granted authority to act for a principal under a power of attorney (financial).

Attorney-in-fact: An individual who is designated by a durable power of attorney for health care as an agent to make health care decisions on behalf of a principal and has consented to act in that capacity. Iowa Code 144B

Capacity: The ability to understand the nature and effects of one's acts. (medical determination)

Competency: A legal finding determined by a review of medical capacity, functional limitations, cognitive and functional abilities. Iowa Code 633

Conservator: A person appointed by the court to have the custody and control of the property of a ward. Iowa Code 633.3(7) and 633A.1102 (5)

Durable Power of Attorney for Health Care: A document authorizing the attorney-in-fact to make health care decisions for the principal if the principal is unable, in the judgment of the attending physician. Iowa Code 144B

Financial Power of Attorney: A writing that grants authority to an agent to act in the place of the principal (on financial matters). Also known as a General Power of Attorney. Iowa Code 633B; 558.36 and 597.5

Guardian: The person appointed by the court to have custody of the person of the ward. Iowa Code 633; 600A; 225C.35 (4); 232.2(21) and 633A.1102 (8)

Health Care: Any care, treatment, service or procedure to maintain, diagnose, or treat an individual's physical or mental condition. Iowa Code 144B

Principal: An individual who authorizes a person to act on his or her behalf through a power of attorney document. Iowa Code 144B

Representative Payee: An individual appointed by a federal government entity to receive funds on behalf of a beneficiary and to meet the beneficiary's basic needs.

Substitute Decision Maker: Is defined as a guardian, conservator, representative payee, agent or attorney-in-fact under a power of attorney, or a personal representative. Iowa Code 231E

PROCEDURE:

- I. When capacity appears to be a significant issue for a resident/tenant the Representative shall make herself or himself aware of the resident's or tenant's status with respect to decision-making.
 - A. Determine if the resident/tenant has a substitute decision maker, and if so, what type. The Representative should verify if any or all of the following exist:
 1. Power of Attorney
 - a. Power of Attorney for Finances
 - b. Durable Power of Attorney for Health Care
 - c. A combined document granting both financial and health care powers
 - d. Are the powers full, limited, temporary or standby?
 - e. If it is a Power of Attorney document, does it contain the necessary language?
 - f. Is there language that makes the power "durable"? And if so, is the document in effect?
 - g. See [Attachment D](#) – Physician Power Of Attorney Statement
 - h. Is it signed by the resident or tenant, dated and either notarized or witnessed?
 - i. Are specific roles and responsibilities set out?
 - j. Is there specific authorization to admit the principal into long-term care? (Ensure that the document has taken effect before the attorney-in-fact signs the admission papers.)
 - k. Is there specific authorization to withhold or withdraw life sustaining procedures (through the power of attorney or a living will)?
 2. Guardianship/Conservatorship
 - a. Guardianship for the person
 - b. Conservatorship of the property or finances
 - c. A combined document granting both powers
 - d. Are powers full, limited, temporary or standby?
 - e. Are the rights of the resident or tenant restricted in anyway?
 - f. Did the guardianship or conservatorship order revoke the power of attorney document?
 - g. Did the guardianship order authorize the Guardian to limit, restrict or deny visitation?

- h. Did the court order set out specific duties for the Guardian or Conservator that are not ordinarily allowed under law?
3. Representative Payee
 - a. Is there a representative payee appointed to handle the federal benefit check, such as social security or supplemental security income?
 - b. Is the payee an individual or the facility?
 - c. Is the payee someone different than the attorney-in-fact for finances or the conservator?
 4. Is it currently in effect?
 - a. Have the documents taken effect or been triggered?
 - b. For the durable power of attorney for health care, is there a physician's statement indicating that the document has taken effect?
 - c. For guardianship/conservatorship, are there letters of appointment or a court order?
 - d. For the representative payee, is there a letter of appointment?
 5. Are there other existing health care or financial management documents or arrangements which express the intent of the resident or tenant?
 - a. Do-not-resuscitate order signed by the doctor but consented to by the resident/tenant/ attorney-in-fact or guardian. (In order for the guardian to approve, he/she must receive court approval.)
 - b. Physician's Order for Scope of Treatment
 - c. Living Will—takes effect when in a terminal state and includes persistent vegetative state.
 - d. Out of Hospital Do-Not-Resuscitate Order
 - e. Joint ownership of bank accounts or other assets
 - f. Joint tenancy of property
 - g. Trusts

When a resident or tenant has a valid substitute legal decision maker, the Representative should communicate, as appropriate, with the decision maker to make her or him aware of the issues leading to Representative involvement. To the extent permitted by law, the Representative may limit the extent of communication with the substitute decision maker if:

- in the Representative's determination, the decision maker's actions are causing or exacerbating the problem which precipitated the complaint, or
- as directed by the resident or tenant.

The Representative may discuss modifications, corrections, or actions to make proposed or existing substitute decision-making documents effective in achieving the intent of the

principal (in power of attorney matters) or the intent of the court and the best interests of the ward (in guardianship or conservatorship matters) or to meet the basic needs of the beneficiary under a representative payee. Among other duties, the Representative may assist a resident/tenant in writing a letter to the court to express the resident's/tenant's desires and/or provide information about how to revoke Power of Attorney documents.

- II. If there is no substitute decision maker, the Representative should consider if one may be needed. If there is a substitute decision maker, the Representative should consider if the best interests of the resident are being carried out. The Representative may make this determination by means of direct observation or by evaluation of information provided by other sources. The Representative should consider any or all of the following:
 - A. Resident's or Tenant's apparent capacity to make informed decisions?
 - a. Need for activation of valid power of attorney for health care, if any?
 - b. Need for activation of valid power of attorney for finances, if any?
 - c. Need for guardian of the person?
 - d. Need for Conservator of the property/finances? Both?
 - e. Need for general vs. limited guardianship?
 - f. Need for general vs. limited conservatorship?
 - B. Resident's or tenant's desire to have legal counsel retained/appointed to represent him/her in legal proceedings?
 - C. Need for a breach of fiduciary duty to be brought to the courts attention? If so, facility or individuals with knowledge and examples of this breach can write a letter to the court.
- III. The Representative may assist a resident/tenant in legal proceedings only with prior approval from Ombudsman:
- IV. The Representative may not complete powers of attorney documents on behalf of any resident or tenant, nor may a Representative serve as witness to any such document. If the resident or tenant is interested in signing these forms, the Representative can assist by obtaining these generic documents for the resident/tenant to sign.
- V. The Office and its representatives will not, as a matter of policy, act as a Petitioner in the following proceedings:
 - A. Any petition for guardianship and/or conservatorship;
 - B. Any petition to have the guardian and/or the conservator discharged and a new guardian and/or conservator appointed or to have the authority of a guardian and/or conservator limited by the court;
 - C. Any petition to have the ward's incompetency reviewed.

- VI. Only with prior approval from the Ombudsman, may a Representative communicate directly with other agencies or courts to report circumstances in which the terms of court orders or power of attorney documents are being violated or abused or situations which suggest a need for official review or oversight.

TITLE: Coverage for and reporting to Representative on leave

STATEMENT of POLICY: When a Representative is scheduled to be off work for 3 or more business days, another Representative will be assigned to take over the current workload while that person is absent from work. The Representative taking leave will communicate in writing to the receiving Representative work that needs to be completed. When the Representative returns from leave, the Representative who had assumed duties will contact the returning Representative in writing to inform him/her of situations that require action and/or follow-up.

ELEMENTS:

When a Representative has to be absent from work for 3 or more business days, another Representative will handle the current workload while the absent Representative is out of the office.

- I. For scheduled leave, the Representative who will be absent will:
 - A. Communicate with the Office to determine who will be assuming his/her current workload while absent.
 - B. Communicate via Word document any necessary tasks to be completed or required follow-up to the Representative who will be providing coverage. The Representative may also wish to communicate verbally.
 - C. Assign access rights in the approved documentation system to the Representative who will be providing coverage.
 - D. Ensure documentation is current in any case or program activity where follow-up or further action may be needed.
 - E. Change office voicemail and e-mail to indicate the absence.
 1. Need to include:
 - a. Your name
 - b. Job Title
 - c. What information you want from caller
 - d. That the Representative will contact the caller upon their return, or the caller may call the 866 number to speak with another Representative during this absence.
 - e. Add an addendum if you are going to be out for an extended time. Addendum should include the phone number of the Representative who will be providing coverage.
 2. Suggested voicemail messages:

- a. You have reached the confidential voicemail for _____, (Name and Title) with the Office of the State Long-Term Care Ombudsman. I am unable to take your call right now. Please leave your name, telephone number and a message and I will respond back to you as soon as possible. Thank you for your call.
- b. You have reached the confidential voicemail for _____, (Name and Title) with the Office of the State Long-Term Care Ombudsman. I am currently unavailable to respond to your call. Please leave your name, telephone number and a message and I will follow-up with you as soon as possible upon my return. Or if you prefer to speak with someone sooner, please call 866-236-1430. Thank you for your call.

3. Suggested Out of Office e-mail messages

- a. Thank you for your e-mail. I currently have limited availability to respond to e-mails and return phone calls. I will respond to you as soon as possible.
 - b. Thank you for your e-mail. I am currently unavailable and will follow-up with you as soon as possible. If you prefer to speak with someone in my absence, please call 866-236-1430.
- II. For unscheduled leave, the Office will determine who will be assuming duties while a Representative is absent from work.
- The Representative providing coverage will contact the Office to inquire about and obtain access to a case or program activity as needed.
- III. When a Representative returns from leave, the Representative who had been covering will communicate via Word document any necessary tasks to be completed or necessary follow-up to the returning Representative. The Representative may also wish to communicate verbally.
- I. The Representative providing coverage will maintain a written log in a Word document of all correspondence, program activities, and cases that took place during the Representative's absence and will forward that information to the Representative upon his/her return.
 - a. The Representative providing coverage will be responsible for documenting all work performed in the approved documentation system and ensure documentation is current in any case or program activity where follow-up or further action may be needed.
 - b. The returning Representative will review the log and corresponding information in the approved documentation system and communicate any questions verbally or in writing with the Representative who was providing coverage.
 - c. The Representative will communicate to determine who will resume work or provide follow-up, if needed, on specific program activities and cases.

TITLE: Interference Prohibited by a Long-Term Care Facility

Statutory References: Iowa Code § 231.42(8)
17 Iowa Administrative Code 8
42 U.S.C. 3058(g)

STATEMENT of POLICY: An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the work of a Representative of the Office is subject to a penalty imposed by the director of the Iowa Department on Aging of not more than one thousand five hundred dollars for each violation. If the director imposes a penalty for a violation, no other state agency shall impose a penalty for the same interference violation.

Examples of interference that could exist are: denial of access to the long-term care facility or residents/tenants; interference with private communication with residents/tenants; refusal to produce requested information such as the personal, medical or financial record; and attempts by representatives of a long-term care facility to influence decisions or actions of the Representatives.

PROCEDURE:

- I. The Representative will inform the parties of the duties as set forth by the Older Americans Act and the state penalty for interference. See [Attachment F](#): Ombudsman Access and Interference Penalties.
- II. The Representative will contact the Ombudsman to report information about the interference.
- III. The Representative will gather the necessary facts regarding the interference.
 - a. Name of the long-term care facility and staff names
 - b. Resident(s)/Tenant(s) names
 - c. Date and time
 - d. Type of interference
- IV. If a long-term care facility staff member is the source of the interference, the long-term care facility administrator/director will be notified about the interference by the Representative.
- V. If the long-term care facility administrator/director is the source of the interference, the person responsible for supervising the administrator/director and/or the owner of the facility/program will be notified about the interference by the Representative.

- VI. The Representative will forward relevant information to the Ombudsman regarding the interference.
- VII. The Ombudsman will conduct a review of the facts and make a recommendation to the Director of the Iowa Department on Aging.
- VIII. If the recommendation is to impose a penalty, the Director of the Iowa Department on Aging will issue a notice of interference to the long-term care facility and assess a fine. The notice will include the procedure to appeal the penalties imposed.
- IX. The Director, in consultation with the Ombudsman, shall notify the county attorney of the county in which the long-term care facility is located, or the attorney general, of any violation within Iowa Code 231.42(8).

TITLE: Use of Photography/Videography/Audio

STATEMENT of POLICY: The use of photography, videos, and voice recordings is not permissible in relation to residents, tenants and facility/program staff. Representatives will not take pictures or record video/audio of any person, including residents/tenants and facility staff, even if consent has been given. In addition, pictures/videos/audio shall not be taken of residents'/tenants' confidential records or any other written materials specific to a resident/tenant.

Use of photography, videos, and voice recordings may be incorporated during the investigation process for physical environment and/or dietary concerns. Consent is not required as long as residents/tenants or staff are not present.

PROCEDURE:

- I. When a photograph, video or other voice recording is appropriate, ensure that the picture/video-taking device is the sole property of the State of Iowa. Representatives should not use their own personal equipment, including cell phones, tablets, tape recorders, cameras or other devices with photographic capabilities.
- II. Recording may be appropriate when concerns relate to the following:
 - A. Safety hazards
 - B. Extensive pest infestation
 - C. Faulty or dirty equipment/furnishings
 - D. Thermostat or thermometer reading
 - E. Facility postings
- III. Images/recordings may not be enhanced or altered in any manner.
- IV. Immediately upon taking the photograph/video/audio, document the following:
 - A. Date and time
 - B. Identity of the photographer
 - C. Facility name and location
 - D. Brief description of the image, location, and purpose
- V. Images/Recordings shall become part of a case file or record and shall only be released for referral purposes or as required by law.

- VI. The Representative shall immediately delete the images/recordings from the picture/video-taking device after they have been entered into the approved documentation system.

TITLE: Reporting Abuse, Neglect and Exploitation

Statute References: 42 U.S.C. 3058i
Iowa Code § 235B
Iowa Code § 235E
Iowa Code § 235F

STATEMENT of POLICY: Long-term care facilities in Iowa are required to self-investigate and report abuse allegations to the Department of Inspection and Appeals (DIA), law enforcement, and/or the Department of Human Services (DHS), depending on the nature of the allegation. These agencies serve as the official finder of fact related to allegations of abuse, neglect, and exploitation. When complaints or concerns of abuse, neglect, or exploitation are received by a Representative of the Office, the purpose of investigating is to resolve the complaint to the resident's/tenant's satisfaction, rather than to substantiate whether the abuse or other allegation occurred. The long-term care ombudsman program does not have a duty to collect sufficient evidence to meet the higher legal standards of proof that protective services, licensing or regulatory agencies, or law enforcement may need to meet their respective purposes.

DEFINITIONS:

Iowa Code 235B: Dependent Adult Abuse Services—Information Registry

Caretaker: means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

Dependent Adult: means a person eighteen years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.

Dependent Adult Abuse: means:

- (1) Any of the following as a result of the willful or negligent acts or omissions of a caretaker:
- (a) Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
 - (b) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.
 - (c) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit, without the informed consent of the dependent adult,

including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

- (d) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or health.
- (2) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.
- (3) (a) Sexual exploitation of a dependent adult by a caretaker.
 - (b) ***"Sexual exploitation"*** means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. *"Sexual exploitation"* includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

Iowa Code 235E: Dependent Adult Abuse in Facilities and Programs

Caretaker: means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court.

Dependent adult: means a person eighteen years of age or older whose ability to perform the normal activities of daily living or to provide for the person's own care or protection is impaired, either temporarily or permanently.

a. *"Dependent adult abuse"* means:

- (1) Any of the following as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances:
 - (a) A physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult which involves a breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances. ***"Assault of a dependent adult"*** means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

- (b) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.
 - (c) Exploitation of a dependent adult. ***“Exploitation”*** means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult’s funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.
 - (d) Neglect of a dependent adult. ***“Neglect of a dependent adult”*** means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or physical or mental health.
- (2) Sexual exploitation of a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. ***“Sexual exploitation”*** means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. ***“Sexual exploitation”*** includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing investigation. ***“Sexual exploitation”*** does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.
- (3) Personal degradation of a dependent adult. ***“Personal degradation”*** means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. ***“Personal degradation”*** includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker’s actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. ***“Personal degradation”*** does not include the taking, transmission, or display of an electronic image of a dependent adult for the purpose of reporting dependent adult abuse to law enforcement, the department, or other regulatory agency that oversees caretakers or enforces abuse or neglect provisions, or for the purpose of treatment or diagnosis or as part of an ongoing investigation. ***“Personal degradation”*** also does not include the taking, transmission, or display of an electronic image by a caretaker in accordance with the facility’s policies or program’s confidentiality policy and release of information or consent policies.

Mandatory Reporter: A staff member or employee of a facility or program who, in the course of employment, examines, attends, counsels, or treats a dependent adult in a facility or program and reasonably believes the dependent adult has suffered dependent adult abuse,

shall report the suspected dependent adult abuse to the department. A Representative is not a mandatory reporter of abuse.

PROCEDURE:

- I. When a Representative receives or identifies a concern involving abuse, neglect, or exploitation, the Representative shall:.

If...	Then the Representative shall...
The resident/tenant or resident/tenant representative has communicated informed consent for the Representative to seek resolution to the resident's/tenant's satisfaction	<ol style="list-style-type: none"> 1. Follow complaint investigation steps (Policy #3: Cases, and Complaints and Consultations) as in other types of complaints, and/or 2. Provide information to the resident/tenant regarding referral resources and encourage him/her to make the report himself/herself, and/or 3. Make a report to the Department of Inspections and Appeals (DIA) Complaint Intake Unit, the Department of Human Services (DHS) Abuse Hotline, or law enforcement, as appropriate with resident/tenant/representative consent.
A Representative personally witnesses suspected abuse, gross neglect, or exploitation of a resident/tenant	<ol style="list-style-type: none"> 1. Seek communication of informed consent from the resident/tenant to disclose resident/tenant-identifying information to appropriate agencies. Where such resident or resident representative is able to communicate informed consent, the Representative shall follow his/her direction. 2. Where such resident/tenant is unable to communicate informed consent and has no resident/tenant representative available to provide informed consent, the Representative shall open a case with the Representative as the complainant, follow Office complaint resolution procedures, and shall refer the matter and disclose identifying information of the resident/tenant to the management of the facility in which the resident/tenant resides or the appropriate agency or agencies for substantiation of abuse, gross neglect, or exploitation when: <ol style="list-style-type: none"> a. The Ombudsman or Representative have no evidence indicating that the resident/tenant would not wish a referral to be made; b. The Ombudsman or Representative has reasonable cause to believe that disclosure would be in the best interest of the resident/tenant, and c. The Representative obtains approval of the

	Ombudsman.
The resident/tenant or resident/tenant representative is able to communicate informed consent to seek resolution, but declines.	<ol style="list-style-type: none"> 1. Follow the direction of the resident/tenant or resident/tenant representative 2. Provide information to the resident/tenant regarding referral resources and encourage him/her to make the report himself/herself, and/or 3. Visit with other residents/tenants to see if they have had similar experiences, 4. Determine if any other residents/tenants wish the Representative to take action on his/her behalf, and/or 5. Encourage the resident/tenant to permit the Representative to take action.
The resident/tenant is unable to communicate informed consent to the Representative	<p>The Representative may refer the matter and disclose resident identifying information to the appropriate agency/agencies under the following circumstances:</p> <ol style="list-style-type: none"> a. The resident has no resident representative; and b. The Representative has reasonable cause to believe that an action, inaction or decision may adversely affect the health, safety, welfare, or rights of the resident; and c. The Representative has no evidence indicating that the resident would not wish a referral to be made; d. The Representative has reasonable cause to believe that it is in the best interest of the resident to make a referral; and e. The Representative obtains the approval of the Ombudsman. <ol style="list-style-type: none"> 1. Encourage and provide assistance to any other person who is aware of the suspected abuse 2. Communicate the suspected abuse to the facility staff and encourage them to report, and 3. Make a report to the Department of Inspections and Appeals (DIA) Complaint Intake Unit or Department of Human Services (DHS) Abuse Hotline or law enforcement as appropriate.
The complainant is a mandatory reporter	Inform the complainant of his/her duty of reporting suspected abuse.
The complainant is not a mandatory reporter.	<ol style="list-style-type: none"> 1. If informed consent is given, follow complaint investigation steps (Policy #3: Cases, and Complaints and Consultations) as in other types of complaints, and/or 2. Provide referral information for DIA, DHS or law

	enforcement as appropriate.
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- II. Under Iowa Code 235B.6(2)(e)(10), Authorized Access for Dependent Adult Abuse Services, the Representatives of the Office are listed as persons with authority to access dependent adult abuse information. This access is authorized if the victim resides in a long-term care facility or the alleged perpetrator is an employee of a long-term care facility.

If a Representative requires a dependent adult abuse report finding to investigate a complaint, the following process should be followed:

1. Complete DHS form 470-0643, Request for Child and Dependent Adult Abuse Information (See [Attachment L](#): Request for Child and Dependent Adult Abuse Information Form).
2. Submit to the Ombudsman. The Ombudsman will sign and submit the form to DHS on behalf of the Office.
3. Upon receiving a response from the DHS Central Abuse Registry, the Ombudsman will share with the Representative requesting the information.

TITLE: Certification, Designation and Withdrawal of Designation of an Employee Representative

Statute References: 45 CFR 1324.11(e)(1)(iii)
45 CFR 1324.11(e)(4)(iii)
45 CFR 1324.11(e)(6)

STATEMENT of POLICY: This policy sets forth procedures for certification, designation and withdrawal of designation for a Representative including minimum qualifications, certification process, refusal to designate an individual as a Representative and withdrawal of designation of a Representative.

The Ombudsman designates individuals as Representatives to participate in the Long-Term Care Ombudsman Program (LTCOP) and may suspend or withdraw designation of an individual as a Representative.

Each Section includes: 1) criteria used in designating (or withdrawing designation) and 2) the process used in designation (or withdrawal of designation).

PROCEDURE:

- I. Criteria for Designation of a Representative
 - A. To be designated as a Representative, an individual must:
 1. Have demonstrated capability to carry out the responsibilities;
 2. Be free of un-remedied conflicts of interest. (See [Ombudsman Policy 5: Conflicts of Interest.](#))
 3. Meet the minimum qualifications for the applicable position;
 4. Read, review, and follow the protocols as outlined in the OSLTCO policy and state employee manuals. A Representative shall sign an acknowledgement of receipt upon employment and when changes occur. See [Attachment R: Acknowledgement of Receipt of Iowa Office of the State Long-Term Care Ombudsman Policy Manual](#);
 5. Satisfactorily fulfill assigned responsibilities and tasks;
 6. For a certified Local Long-Term Care Ombudsman, the following criteria shall also apply:
 - a. Upon beginning employment and on an annual basis, a Representative shall sign and abide by the National Association of State Long-Term Care Ombudsman Programs "Code of Ethics for Ombudsmen". (See [Attachment N: Code of Ethics for Ombudsmen](#));

- b. Satisfactorily complete the applicable certification training requirements;
 - c. Be awarded a current certification card, signed by the Ombudsman;
 - d. Receive and verify receipt of ongoing annual training to renew certification.
- B. Minimum qualifications for a Representative of the Office
 - 1. In order to qualify as a Representative, an individual must have:
 - a. an undergraduate degree from a four-year college or university; and
 - b. two years of professional experience with at least one year in aging, long-term care, or related fields, or volunteer management as well as any unique requirements or selectives set forth in the job posting; and
 - c. a criminal and sexual offender background check by a law enforcement agency. The individual cannot be designated if he or she has been convicted of any crimes which would impede the applicants or designee's ability to act on behalf of the health, safety, welfare and rights of a resident or tenant; and
 - d. a check of all applicable abuse and Office of Inspector General registries. The individual cannot be designated if he or she is not allowed within a long-term care facility or near dependent adults or children; and
 - e. Relevant and comparable education and/or experience may be substituted at the discretion of the Ombudsman.
- C. Requests for substitutions or variances
 - 1. Requests for substitutions or variances related to minimum qualifications must be made in writing and approved by the Ombudsman prior to the hiring of, promotion of or designation of a Representative. The request shall include an explanation as to how the candidate or current Representative would otherwise be qualified to serve as a Representative. The decision as to whether to grant a substitution or variance shall be made by the Ombudsman.
- D. Training and Certification for Local Long-Term Care Ombudsmen

Local Long-Term Care Ombudsmen, serving within the long-term care ombudsman program, must be certified by the Office prior to independently working on any long-term care ombudsman tasks. Tasks include but are not limited to: facility visits, providing consultation, receiving complaints, investigating and resolving complaints. The certification process ensures that all Local Long-Term Care Ombudsmen are free from conflicts of interest, pass a criminal record background check clearance, complete 36 hours of training, complete self-directed orientation modules and quizzes, and are qualified to perform the duties of a local long-term care ombudsman. There are five levels to complete for initial and continued certification as a Local Long-Term Care Ombudsman.

Level One: In-person training. The applicant will complete the individual conflicts of interest statement and discuss with the Ombudsman to ensure that unremedied conflicts of interest do not exist; complete the confidentiality agreement form and

discuss with the Ombudsman; review all background check results with the Ombudsman, and receive 36 hours of initial training. The initial training will include an introduction to the long-term care ombudsman program, expectations of the Ombudsman in fulfilling the Local Long-Term Care Ombudsman role, an overview of applicable federal and state laws and agencies, a discussion of residents and tenants' rights, a discussion of the Office policies and procedures manual, training on the aging and disability networks, an overview of the documentation and coding process through the case management system, as well as a discussion with a mentor on access, investigation, monitoring and survey processes.

Level Two: Self-Directed Orientation-Advocacy. The applicant will review all modules of the certification manual and complete associated quizzes with a score of at least 70%. If a 70% score is not received, the applicant shall be eligible to retake the test one time within 30 days. The modules discuss: the history and role of the long term care ombudsman program, the aging process, residents' and tenants' rights, problem solving process-investigation, and problem solving process-resolution.

Level Three: Self-Directed Orientation-Documentation. The applicant will review the four National Ombudsman Resource Center training modules related to documenting and complete the associated quizzes with a passing score. After completion of Level One, Two and Three, the applicant will begin 20 hours of in the field job shadowing with their local long-term care ombudsman mentor. After this level, an applicant is able to receive a complaint and investigate a case under the guidance of their mentor.

Level Four: Volunteer Ombudsman Program training. The applicant will attend a volunteer training (if scheduled in their area) or if not scheduled, review the contents of the volunteer ombudsman training and certification program with the volunteer ombudsman program coordinator. After successfully completing levels one through four, the applicant will receive the certification of a "Local Long-Term Care Ombudsman".

Level Five: Re-certification. To continue as a certified Local Long-Term Care Ombudsman, the individual must satisfactorily fulfill all responsibilities; renew the certification each federal fiscal year by completing at least 16 hours of continuing education, as approved by the Ombudsman – see [Attachment P](#): Educational Opportunities; have no unremedied individual conflicts of interest; have no new criminal background check occurrences which would interfere with the performance of their duties, and adhere to the Office's confidentiality requirements and Code of Ethics.

E. Training and Certification for Certified Volunteer Ombudsmen

See separate Volunteer Ombudsmen policies and procedures for certification and training requirements as well as the curriculum.

F. Designation of formerly certified Representatives from Iowa or from another state

1. When an individual has been certified as a Representative previously in Iowa but is not currently certified, or when an individual has been certified as a Representative in another state, the Ombudsman shall determine what steps are needed to qualify as a certified Representative, by reviewing the circumstances on an individual basis and considering, at a minimum, the following criteria:
 - a. content and extent of training completed, which must meet or exceed current certification training requirements for Iowa; and
 - b. need for updated and/or Iowa-specific training;
 - c. need to demonstrate competencies for the position by completing written and oral examinations;
 - d. quality of performance of an individual as a Representative, including checking references; and
 - e. conflicts of interest and criminal or abuse background findings.

II. Process for Designation:

A. Notification of designation as a Representative

1. The Ombudsman shall review all criteria, qualifications, requests for variances or acknowledgement of previous designations to determine if a designation will be granted.
2. The Ombudsman shall send written notification of an individual's initial designation as a Representative to the individual being designated within thirty days of the determination.
3. The Ombudsman shall send written notification of a Representative's re-certification and continued designation upon completion of necessary continuing education requirements, updated background checks and conflicts of interest checks as well as an annual evaluation, including monitoring by the Ombudsman.

III. Criteria for Refusal to Designate, Suspension of Designation, or Withdrawal of designation of a Representative.

A. The Ombudsman may refuse to designate, may suspend designation, or may de-designate an individual as a Representative for any of the following reasons:

1. failure of the individual to meet and/or maintain the criteria for designation;
2. deliberate failure of the individual to disclose any conflict of interest;
3. violation of confidentiality requirements;
4. failure to provide adequate and appropriate services to long-term care residents and tenants;
5. falsifying records;
6. failure to adhere to the Ombudsman or other professional licensure Code of Ethics;
7. failure to follow policies and procedures or the direction of the Ombudsman;

8. a change in employment duties which are incompatible with Representative duties;
9. separation from the Long-Term Care Ombudsman Program. An example could include: an extended absence of the Representative preventing fulfillment of job responsibilities or;
10. failure to act in accordance with applicable federal and state laws, regulations, and policies.

IV. Process for Non-Designation

A. Notification of Refusal to Designate, Suspension of Designation, or Withdrawal of designation as a Representative of the Office.

1. The Ombudsman shall review all criteria, qualifications, requests for variances or acknowledgement of previous designations to determine if a designation will be granted, suspended or withdrawn.
2. The Ombudsman shall send a written and dated notification of an individual's suspension of designation, withdrawal of designation, or refusal to designate as a Representative to the individual within thirty days of the determination.
3. The decision to proceed with non-designation can be reconsidered. For a reconsideration, the affected individual must send a written and signed statement requesting a reconsideration and outlining within that request why he or she believes the qualifications for designation are met and present new information that is now available. The request for reconsideration must be received by the Ombudsman within 30 days of the date set out within the original notification. The Ombudsman will review all additional information presented and issue a final decision, which will be written, dated, and sent within 30 days of receipt of the request for reconsideration.

TITLE: Grievance against a Representative of the Office

STATEMENT of POLICY: Grievances against a Representative of the Office shall be accepted from any person or entity. The Office shall abide by relevant federal and state confidentiality requirements when responding to grievances.

PROCEDURE:

Grievances will be considered to be received by the when the complainant contacts the Ombudsman or designee.

- I. **Formal Grievance:** For each grievance the Office receives against a Representative, the complainant will be asked if they wish to file a formal grievance. Submission of a formal grievance will require the complainant to identify him/herself. If so, the complainant will be asked to submit their concerns via the Formal Grievance Form. (See [Attachment G](#)).
- A. Upon receipt of the completed Formal Grievance Form:
 1. The complainant will be contacted acknowledging receipt of the Formal Grievance Form.
 2. The applicable Representative will be notified of the complaint received.
 3. The Ombudsman or designee will investigate the allegation by contacting the applicable parties to determine the validity of the grievance, and what further action is needed, if any.
- B. Within 30 calendar days of receipt of the Formal Grievance Form, written follow up will be provided to the complainant and the Representative.
- C. A complainant who is dissatisfied with the findings may make a written request for reconsideration by providing additional information to the Ombudsman and outlining the reason for the request. The request for reconsideration must be filed within 15 calendar days of the date of the formal grievance findings to be considered. The request may be submitted by mail or fax to:

Ombudsman
Office of the State Long-Term Care Ombudsman
510 E. 12th Street, Suite 2
Des Moines, IA 50319
Fax: 515.725.3313

- D. The Ombudsman shall review the request for reconsideration and determine if further investigation is needed. The Ombudsman shall make the final determination regarding the formal grievance.
 - E. Within 30 days of the request for reconsideration, written follow up will be provided to the complainant and the Representative.
- II. **Informal grievance:** Grievances received by the Ombudsman or designee in which the complainant does not wish to register a formal grievance will be reviewed. Any subsequent action will be implemented on a case by case basis, as deemed appropriate by the Ombudsman. Informal grievances have no guarantee of follow up from the Ombudsman.

TITLE: Disclosure of Files and Records maintained by the Office

Statute References: Iowa Code § 231.42(12)-Confidentiality and Disclosure
Older Americans Act, 42 U.S.C. 3058g(d)-Disclosure
45 CFR 1321.11, Disclosure of files to State unit on aging
45 CFR 1324.11(e)(3), Disclosure
45 CFR 1324.13(e), Criteria developed
28 CFR 36.303 Auxiliary Aids and Services

STATEMENT of POLICY: Office files, records, and other information are confidential. Requests for confidential files, records, or other information shall be forwarded to the Ombudsman or designee. Files, records, and other confidential information may be disclosed only at the discretion of the Ombudsman in accordance with criteria developed and outlined in [Attachment I.2](#): Criteria to Guide Disclosure. The Ombudsman will communicate approval or lack of approval for disclosure within three business days of receiving the checklist for Disclosure ([Attachment I.1](#)) or [Attachment H.1](#) (Consent and Authorization form) or completing [Attachment I.3](#) (Criteria to Guide Disclosure Checklist)

POLICY POINTS:

- Representatives shall not disclose to any other party whether a complaint has ever been received by or about an individual, the content of a complaint or investigation, or the outcome of a complaint or investigation.
- If information is requested, Representatives should state that Office files, records and other information are confidential. Such files, records and other information are property of the Office.
- The identifying information of any resident, tenant, or a complainant who is not a resident or tenant, shall not be disclosed without the informed consent of the resident (or resident representative), tenant (or tenant legal representative), or complainant (or complainant legal representative).
- In cases where a resident, tenant, or complainant is willing to permit our Office to acknowledge the filing of a complaint and/or authorize the Office to release confidential files, records or other information, consent shall be obtained by use of the Consent and Authorization Form (See [Attachment H.1](#): Consent and Authorization Form). The Ombudsman will, however, make the final decision on whether to release Office files, records or other information.

DEFINITIONS:

Disclosure: the act or process of making known something that was previously unknown. (Black's Law Dictionary)

Informed Consent: A person's agreement to allow something to happen, made with full knowledge of the risks involved and the alternatives. (Black's Law Dictionary)

Resident Representative: means any of the following:

1. An individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications;
2. A person authorized by state or federal law (including but not limited to agents under powers of attorney, representative payee, and other fiduciaries) to act on behalf of the resident;
3. Legal representative;
4. The court-appointed guardian or conservator of a resident;

(45 CFR 1324.1)

Use of Auxiliary Aids or Services: means

1. Qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
2. Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

PROCEDURE FOR HANDLING REQUESTS TO DISCLOSE:

- I. When a request is made for a file, record, or other confidential information maintained by the Office, the Representative who receives the request shall complete the Checklist for Disclosure Form (See [Attachment I.1: Checklist for Disclosure](#)) and forward to the Ombudsman.
- II. The Ombudsman will review the form and apply the criteria set out in [Attachment I.1: Checklist for Disclosure](#) and [Attachment I.2: Criteria to Guide Disclosure](#) within 3 business days to determine if disclosure is appropriate.
- III. If the Ombudsman determines that disclosure of identifying information located within the Office files, records, or other confidential information may be appropriate and the

resident, tenant, and/or complainant can give informed consent, the following actions will be taken:

- A. Contact the Representative who received the request. The Representative shall reach out to the resident, tenant, or complainant to obtain informed consent for the disclosure. The resident, tenant, or complainant must communicate such consent in writing or through the use of auxiliary aids and services. If the resident, tenant, or complainant is willing and able to provide written consent, the Representative will obtain such consent on the Consent and Authorization Form (See [Attachment H.1: Consent and Authorization Form](#)) and forward to the Ombudsman;
 - B. If the resident, tenant or complainant is unable to provide informed consent in writing, but is willing and able to give consent orally, visually, or through the use of auxiliary aids and services, the Representative shall document such consent on the Consent and Authorization Form (See [Attachment H.1: Consent and Authorization Form](#)) and forward to the Ombudsman.
- IV. If the Ombudsman determines that disclosure of identifying information located within the Office files, records, or other confidential information may be appropriate and the resident, tenant, and/or complainant is unable to communicate informed consent, the following actions will be taken:
- A. Contact the Representative who received the request. If, the representative of the resident, tenant, or complainant appears to be acting in the best interests of the resident, tenant or complainant and is willing and able to provide written consent, the Representative will obtain such consent on the Consent and Authorization Form (See [Attachment H.1: Consent and Authorization Form](#)) and forward to the Ombudsman;
 - B. If the representative of the resident, tenant or complainant appears to be acting in the best interests of the resident, tenant or complainant and is unable to provide informed consent in writing, but is willing and able to give consent orally, visually, or through the use of auxiliary aids and services, the Representative shall document such consent on the Consent and Authorization Form (See [Attachment H.1: Consent and Authorization Form](#)) and forward to the Ombudsman.
 - C. If after discussion with the Representative and review of Office files, records, or other confidential information, the Ombudsman has reason to believe the best interests of the resident, tenant, or complainant would not be served, disclosure may be denied.
 - D. If the resident, tenant, or complainant does not have a representative, the Ombudsman will follow the protocol outlined in [Attachment I.2: Criteria to Guide Disclosure](#).

NOTE: The identity of and confidential information related to other residents, tenants, or complainants for whom informed consent to disclose has not been received will be redacted.

- V. If the Ombudsman determines that disclosure of identifying information located within the Office files, records, or other confidential information is not appropriate, the requesting party will be notified of that decision within 3 business days of the decision.

Policy No.:	Omb-20
Effective Date:	Immediately

TITLE: Text Messaging on State Issued Cell Phones

STATEMENT OF POLICY: It is the responsibility of Representatives to maintain strict confidentiality requirements when communicating with any person or entity (See Policy Omb-7 Confidentiality). Confidential information shall not be shared via text messaging as it is not a secure form of communication.

PROCEDURE:

1. When a text message containing confidential information is received, the Representative shall verify the sender and information contained in the message.
2. The Representative shall reply by informing the sender that text messaging is not a secure mode of communication and that the Representative does not communicate confidential information via text message. The Representative shall provide his/her direct number, toll-free number, and e-mail address.
3. The Representative shall document the text messages into the appropriate location in the approved documentation system.
4. The Representative shall delete the text messages from his/her phone.

Policy No.: Omb-21
Effective Date: 10/1/2015

TITLE: Documentation into the Approved Documentation System

STATEMENT of POLICY: All Representatives shall have their documentation entered into the approved documentation system (Ombudsman) in a timely manner by the deadlines specified below.

PROCEDURE:

All Representatives will enter their documentation into the approved documentation system.

Stationed Local Ombudsman: All documentation will be entered into the approved documentation system. Documentation of cases and program activities will be current on or before the bi-weekly touch-base call with Ombudsman and/or lead worker and prior to using schedule leave time.

Mobile Local Ombudsman: All documentation will be entered and current on or before the monthly touch base with Ombudsman and/or lead worker.

TITLE: Liability

Statute References: OAA Title VII, Chapter 2, Section 712 (g) and (i) – 42 U.S.C. 3058(g)
Iowa Code 231.42(11)
Iowa Code 669 (State Tort Claims)

STATEMENT of POLICY: The Office of the State Long-Term Care Ombudsman ensures that legal representation is available to any Representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties. The State ensures that no Representative of the Office will be liable under State law for the good faith performance of official duties.

No Representative of the Office shall be liable for harm caused by an act or omission of the Representative on behalf of the Office of the State Long-Term Care Ombudsman if –

- I. The Representative was acting within the scope of their responsibilities within the Office of the State Long-Term Care Ombudsman program(s) at the time of the act or omission.
- II. The harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the representative. Examples of such conduct may include, but are not limited to:
 - A. Crimes of violence
 - B. Hate crimes
 - C. Sexual offenses
 - D. Violations of civil rights
 - E. Being under the influence of alcohol or any drug at the time of misconduct
- III. The harm was not caused by the Representative operating a motor vehicle, vessel, aircraft, or other vehicle.

PROCEDURE:

If a Representative of the Office experiences legal action or threat of legal action in connection with the performance of their official duties, they should immediately contact the State Long-Term Care Ombudsman.

TITLE: Involuntary Discharges for Nursing Facilities

Statute References: Iowa Administrative Code Chapter 58
Iowa Code 135C.14(8)
42 C.F.R. § 483.15 (admission, transfer, discharge rights)
42 C.F.R. § 483.15 (e) (1) (ii) (permitting residents to return to facility)
481 IAC 58.40(1)(f) (discharge)
481 IAC 58.40(6) (emergency transfer)
481 IAC 58.12 (2)
42 USC 13951-3
42 USC 1396r
State Operations Manual Appendix PP - Guidance to Surveyors for Long Term Care Facilities

STATEMENT of POLICY: Representatives (Representatives) of the Office of the State Long-Term Care Ombudsman (Office) will assist residents of nursing facilities when an involuntary discharge is issued by advocating for and supporting the resident and assisting the resident representative.

PROCEDURE:

- I. An involuntary discharge/transfer will be counted as a case when the Representative takes action on behalf of the resident or resident representative. The mere receipt of an involuntary discharge notice does not count as a case, but could be counted as a program activity in the approved documentation system.
 - A. Involuntary discharges shall be assigned to a Stationed Local Ombudsman on a rotating schedule as determined by the Ombudsman and/or lead worker. The Office will scan and email a copy of the involuntary discharge notice to the Discharge Specialist and Local Ombudsman upon receipt.
 - B. The Stationed Local Ombudsman will review the notice and will determine if assistance of the Office is appropriate within the scope of our authority. The Stationed Local Ombudsman is not required to investigate a discharge if it involves illegal activity or court-ordered placement.
 - C. The Stationed Local Ombudsman shall review the notice to determine if the federal and/or state notice requirements are met. If requirements are not met, the Stationed Local Ombudsman may contact the nursing facility to provide consultation and request that a revised letter be issued that initiates a new discharge timeframe and process. The Stationed Local Ombudsman may also contact the Iowa Department of Inspections and Appeals (DIA) to request a revised letter be issued by the nursing facility.

- D. The Stationed Local Ombudsman shall initiate contact with the nursing facility to learn the circumstances of the discharge and obtain the resident or resident representative's contact information. If the requirements to open a case are met, the Stationed Local Ombudsman will initiate a new case. If not, the Stationed Local Ombudsman will complete a program activity in the approved documentation system.
 - E. The Stationed Local Ombudsman will make at least two attempts to reach the resident and/or the resident's representative. The Stationed Local Ombudsman will confirm what the resident's and/or resident's representative's wishes are related to the discharge and explain their rights and the appeal process.
 - F. The Stationed Local Ombudsman will offer assistance and/or referral information, if requested by the resident and/or resident representative. The Stationed Local Ombudsman will encourage the resident/resident representative to contact the Department of Inspections and Appeals (DIA) if they wish to file an appeal or may attempt to make the call on the resident's behalf. The Stationed Local Ombudsman may encourage that the resident or the resident's representative obtain legal representation and provide referral sources if needed.
 - G. If an appeal is filed and the Stationed Local Ombudsman's assistance has been requested, he/she may participate in the hearing. Refer to policy [Omb-11](#): Participation in Administrative Proceedings and Internal Appeals Process.
 - H. Upon receipt of the hearing decision from the Administrative Law Judge, the Stationed Local Ombudsman shall:
 - 1. Contact the resident and/or resident representative and provide referral options as necessary or requested.
 - 2. Contact the facility and inquire about next steps for the resident.
- II. A discharge to the hospital will be counted as a case when the Stationed Local Ombudsman takes action on behalf of the resident or resident representative. The mere receipt of a discharge notice does not count as a case, but could be counted as a program activity in the approved documentation system.
- A. When the Stationed Local Ombudsman has received notification of a resident being discharged to a hospital, and the facility refuses to accept the resident back, the Stationed Local Ombudsman shall follow all discharge procedures outlined above, including:
 - 1. Contacting the nursing facility to inquire as to the circumstances regarding the discharge and obtain resident or resident representative contact information.
 - 2. Assuring the facility has provided the resident with the proper discharge notice.
 - 3. Ensuring the facility accepts the resident back to the facility pending an appeal decision.
 - 4. Work with the hospital Social Worker to follow the wishes of the resident if he/she would like to return to the facility.

TITLE: Involuntary Transfers for Assisted Living Programs

Statute References: Iowa Administrative Code 67.15
Iowa Administrative Code Chapter 69.24
Iowa Code 648.3(1) (Notice to Quit)
Iowa Code 231C

STATEMENT of POLICY: Representatives (Representatives) of the Office of the State Long-Term Care Ombudsman (Office) will assist tenants of Assisted Living Programs (ALP) when an involuntary transfer notice is issued by advocating for and supporting the tenant and assisting the tenant representative.

Definitions:

Forcible Entry and Detainer (FED): The act of taking and keeping possession of lands and tenements without legal authority

Forcible Detainer: Wrongful retention of possession of property by one originally in lawful possession

PROCEDURE:

- I. An involuntary transfer will be counted as a case when the Stationed Local Ombudsman takes action on behalf of the tenant or the tenant representative. The mere receipt of an involuntary transfer notice does not count as a case, but could be counted as a program activity in the approved documentation system.
 - A. Involuntary transfers shall be assigned to Stationed local ombudsman on a rotating schedule as determined by the Ombudsman and/or lead worker. The Office will scan and email a copy of the involuntary transfer notice to the Stationed Local Ombudsman upon receipt.
 - B. The Stationed Local Ombudsman will review the letter and will determine if assistance of the Office is appropriate within the scope of our authority. The Stationed Local Ombudsman is not required to investigate a transfer if it involves illegal activity, court-ordered placement, or is a result of a monitoring evaluation or complaint investigation by the Department of Inspections and Appeals in an ALP. The Office is not required to be notified about an involuntary transfer in an ALP unless the tenant/tenant's representative contests the transfer.
 - C. The Stationed Local Ombudsman shall review the notice to determine if state requirements are met. If requirements are not met, the Stationed Local Ombudsman may contact the ALP to provide consultation and request that a revised letter be

issued that initiates a new transfer timeframe and process. The Stationed Local Ombudsman may also contact the Iowa Department of Inspections and Appeals (DIA) to request a revised letter be issued by the ALP.

- D. The Stationed Local Ombudsman shall initiate contact with the ALP to learn the circumstances of the transfer and obtain the tenant or tenant's representative's contact information. If the requirements to open a case are met, the Stationed Local Ombudsman will initiate a new case. If not, the Stationed Local Ombudsman will complete a program activity in the approved documentation system.
- E. The Stationed Local Ombudsman will make at least two attempts to reach the tenant and/or tenant's representative. The Stationed Local Ombudsman will confirm what the tenant's wishes are related to the transfer and explain his/her rights and the appeal process.
- F. If an internal appeal is filed and the Stationed Local Ombudsman's assistance has been requested, he/she may participate in the internal hearing.
- G. If the tenant remains in the assisted living unit past the move out date stated in the involuntary transfer notice, the ALP may pursue FED action.
- H. If the transfer notice leads to an eviction, the Stationed Local Ombudsman will continue to offer assistance
 - 1. The Stationed Local Ombudsman may encourage the tenant or the tenant representative to obtain legal representation if the ALP moves forward with a FED action.
 - 2. The Stationed Local Ombudsman may aid the tenant or the tenant representative in understanding documents relating to the eviction. Refer to [Attachment O](#): Assisted Living Program Eviction Information.

TITLE: Involuntary Discharges for Residential Care Facilities

Statute References: Iowa Administrative Code Chapter 57
481-57.13(135C)

STATEMENT of POLICY: Representatives (Representatives) of the Office of the State Long-Term Care Ombudsman (Office) will assist residents when involuntary discharge is issued by advocating for and supporting the resident and assisting the resident representative.

PROCEDURE:

- I. An involuntary discharge will be counted as a case when the Stationed Local Ombudsman takes action on behalf of the resident or resident representative. The mere receipt of an involuntary discharge notice does not count as a case, but, could be counted as a program activity in the approved documentation system.
 - A. Involuntary discharges shall be assigned to Stationed Local Ombudsman on a rotating schedule as determined by the Ombudsman and/or lead worker. The Office will scan and email a copy of the involuntary discharge notice to the Stationed Local Ombudsman upon receipt. The Stationed Local Ombudsman will review the letter and will determine if assistance of the Office is appropriate within the scope of our authority. The Stationed Local Ombudsman is not required to investigate a discharge if it involves illegal activity or court-ordered placement.
 - B. The Stationed Local Ombudsman shall review the notice to determine if the state notice requirements are met. If requirements are not met, the Stationed Local Ombudsman may contact the residential care facility to provide consultation and request that a revised letter be issued that initiates a new discharge timeframe and process. The Stationed Local Ombudsman may also contact the Iowa Department of Inspections and Appeals (DIA) to request a revised letter be issued by the residential care facility.
 - C. The Stationed Local Ombudsman shall initiate contact with the residential care facility to learn the circumstances of the discharge and obtain the resident or resident representative's contact information. If the requirements to open a case are met, the Stationed Local Ombudsman will initiate a new case. If not, the Stationed Local Ombudsman will complete a program activity in the approved documentation system.
 - D. The Stationed Local Ombudsman will make at least two attempts to reach the resident and/or the resident's representative. The Stationed Local Ombudsman will confirm what the resident's and/or resident's representative's wishes are related to the discharge and explain their rights and the appeal process.

- E. The Stationed Local Ombudsman will offer assistance and/or referral information, if requested by the resident and/or resident representative. The Stationed Local Ombudsman will encourage the resident/resident representative to contact the Department of Inspections and Appeals (DIA) if they wish to file an appeal or may attempt to make the call on the resident's behalf. The Stationed Local Ombudsman may encourage the resident or the resident representative to obtain legal representation and provide referral/sources if needed.
- F. If an appeal is filed and the Stationed Local Ombudsman's assistance has been requested, he/she may participate in the hearing. Refer to policy [Omb-11](#): Participation in Administrative Proceedings and Internal Appeals Process.
- G. Upon receipt of the hearing decision from the Administrative Law Judge, the Stationed Local Ombudsman shall:
 - 1. Contact the resident and/or resident representative and provide referral options as necessary or requested.
 - 2. Contact the facility and inquire about next steps for the resident.

TITLE: Involvement in Closures or Crisis Situations

STATEMENT of POLICY: Representatives of the Office (Representatives) of the State Long-Term Care Ombudsman (OSLTCO) may play a key role in closures or crisis situations in long-term care facilities. The primary role of the OSLTCO will be to advocate for and support residents/tenants and their representatives. Representatives may assist in relocation efforts and monitor the daily business of the long-term care facility. Representatives will collaborate with core team agencies as defined in the Iowa Long-Term Care Facility Closure/Crisis Team Procedures Manual and other parties with permission and/or as outlined by law.

Definitions:

Core team agencies: Department of Inspections and Appeals, Department of Human Services – Iowa Medicaid Enterprise, Disability Rights Iowa, Office of the State Long-Term Care Ombudsman

PROCEDURE:

- I. Facility closure/crisis situations will be assigned to a Stationed Local Ombudsman on a rotating basis as determined by the Ombudsman and/or lead worker. Upon learning about a potential closure/crisis, the Ombudsman shall notify other members of the core team. If another core team member informs the Office about a potential closure/crisis, the Ombudsman/lead worker will inform the Stationed Local Ombudsman assigned to the closure/crisis facility.
- II. Core team members will:
 - A. Verify the closure/crisis by communicating with the long-term care facility.
 - B. Determine the timeline for closure or resolution of crisis.
 - C. Arrange a closure team meeting where the long-term care facility, core team agencies, and other appropriate agencies are present. This may be in-person or via conference call.
 1. Set up meeting as soon as possible after core team members become aware of the closure/crisis. DIA convenes meeting. A Representative may request a meeting if DIA has not taken the lead in arranging one.
 2. Ensure that all participants have the authority to hear and receive confidential information.
 - D. Hold closure team meeting to discuss closure/crisis.
 1. Receive updates from long-term care facility
 2. Discuss resident/tenant placements/census
 3. Relocation difficulties

4. Operations
 5. Discuss reason for closure/crisis
 6. Determine/reevaluate date of closure/resolution of crisis
 7. Inform long-term care facility of various agency roles and resources that may be provided to the facility
 8. Determine need for and schedule additional meeting(s) if needed/requested
- E. Core team agencies shall encourage the long-term care facility to schedule a resident/tenant/representative meeting as soon as possible where the long-term care facility, core team agencies, and other appropriate agencies are present. This will be in-person and information shared shall not be confidential in nature.
 - F. Hold a resident/tenant/representative meeting where the long-term care facility, core team agencies, and other appropriate agencies are present.
 1. Receive updates from long-term care facility.
 - a. Discuss placement options.
 - b. Discuss reason for closure/crisis.
 - c. Determine timeline for closure/resolution of crisis.
 2. Inform residents/tenants/representatives of various agency roles and resources that may be provided to residents/tenants/representatives. Provide the Discharge Specialist contact information to assist with residents/tenants.
 3. Determine need for and schedule additional meeting(s) if needed/requested.
- III. If visiting the long-term care facility for an on-site as needed monitoring visit, the Stationed Local Ombudsman shall
 - A. Offer assistance and support to the resident/tenants.
 1. Ensure needs are met, rights are protected, complaints are addressed, and individuals are not pressured into signing documents or agreeing to relocate
 2. Distribute resident and tenant rights information
 3. Answer questions and serve as a resource
 - B. Meet with resident/tenant representatives as needed or requested, following confidentiality requirements.
 - C. Utilize the monitoring tool for documentation purposes. Refer to the Iowa Long-Term Care Facility Closure/Crisis Team Procedures Manual.
 1. Complete initial intake and investigation of complaints as per Office Policies [OMB -2](#) & [OMB -3](#) if resident-tenant specific concerns arise and communicate with core team members (if permission given) during next scheduled meeting or earlier if needed.
 2. If the Stationed Local Ombudsman is working on a resident/tenant-specific concern, open a separate case and communicate with the Local Ombudsman if needed. If the Discharge Specialist is working on the closure/crisis in general, document in the All Residents/All Tenants case.

- a. The Stationed Local Ombudsman will open and close the case in the approved documentation system.
- IV. In addition to attending conference calls, and meetings the Stationed Local Ombudsman may be tasked with the following:
 - A. Assisting the Office to prepare and send letter of potential closure or crisis if not completed by other core team members or the facility. Refer to the Iowa Long-Term Care Facility Closure/Crisis Team Procedures Manual.
 - B. Contact local facilities and/or assisted living programs to determine bed availability for residents or tenants that may need to move and print off lists of facilities in the surrounding area.
 - C. Obtain the following information from the facility, program, or core team:
 - 1. Face sheets
 - 2. Resident/tenant census
 - 3. Special needs of individual residents/tenants
 - 4. Any sex offenders
 - 5. Any residents/tenants with committals
 - 6. Any residents/tenants the facility feels will be particularly difficult to place
 - D. Work with residents and/or tenants to find relocation options and assist the residents/tenants through the relocation process. It is ultimately the responsibility of the facility or program to find placement for all residents/tenants.
 - E. Get release signed by resident/tenant or legal representative. Refer to the Iowa Long-Term Care Facility Closure/Crisis Team Procedures Manual.
 - F. Work with residents and/or tenants to ensure the following tasks are completed:
 - 1. Inventory checklist of belongings. Refer to the Iowa Long-Term Care Facility Closure/Crisis Team Procedures Manual
 - 2. Arrange for assistance with packing, transportation
 - 3. Assist in switching over mail
 - G. Make referrals to appropriate agencies for issues, as needed
- V. After closure/crisis, the Stationed Local Ombudsman will follow up with the resident/tenant/representative and the receiving facility/provider.
 - A. Conduct phone calls.
 - B. Utilize Resident/Tenant Relocation Tracking Form and Resident/Tenant Relocation Follow-up Form Refer to the Iowa Long-Term Care Facility Closure/Crisis Team Procedures Manual.
 - C. Communicate with other core team agencies if necessary.

TITLE: Travel to Perform Work-Related Duties

STATEMENT of POLICY: Effective June 30, 2016 work related travel was curtailed for Representatives of the Office. Travel for Stationed Local Ombudsmen who choose to travel is currently limited to 150 miles per month via personal vehicle for work related use as defined below. Any Representative of the Office that will not be using the full allotment of 150 miles per month must contact the Ombudsman by the third Monday of the month, to supply information about miles that will not be used and the Ombudsman will redistribute the unused miles to other Representatives of the Office.

Mobile Local Ombudsman shall utilize Department of Administrative Services (DAS) Fleet Motorpool vehicle for monitoring visits per an assigned schedule from the Ombudsman or lead/worker. In situations where a Representative needs/wants to use his/her personal vehicle for work-related use, prior approval must be obtained from the Ombudsman.

Work-related travel includes, but is not limited to: travel for cases, complaints and consultations, to make a non-complaint related visit, to provide in-services, to carry out Volunteer Ombudsman Program related activities, community education and other trainings, and to obtain continuing education or attend a work-related conference/training/workgroup/meeting.

When budgetary constraints or other reasons as outlined by the Ombudsman or DAS Fleet Motorpool impede the ability for Representatives to travel for any case, complaint, consultation, a non-complaint related visit, or other work-related activity, there shall be limited or no travel without advance approval from the Ombudsman.

PROCEDURE:

- I. Travel to perform work-related duties
 - A. It may be expected that Representatives travel to perform work-related duties. See Policy [Omb-3](#): Cases, and Complaints and Consultations and Policy [Omb-8](#): Non-Complaint Related Visits.
 - B. When travel is not possible due to budgetary or other constraints as outlined by the Ombudsman or DAS Fleet Motorpool:
 1. The Ombudsman shall:
 - a. Inform Representatives of travel restrictions in writing. This may include travel on a case-by-case or priority-type basis, inability to travel at all without advance approval from the Ombudsman, who Representatives may or may not be able to travel with to perform work-related duties (See [Omb-5.2](#): Organizational Conflicts of Interest), and that travel may not take place during

- a Representative's lunch or other break times to attend work-related functions.
 - b. Pursue remedies related to travel restrictions.
 - c. Inform Representatives when travel has been restored and to what capacity.
- 2. Representatives shall:
 - a. Follow the directive of the Ombudsman.
 - b. Follow DAS Fleet Motorpool policy and procedures for reserving a vehicle or receive advance approval from the Ombudsman to travel in a personally owned vehicle and receive reimbursement at the State-approved rate.
 - c. Carry out all work-related job duties.
- 3. Mobile Local Ombudsman shall:
 - a. Follow DAS Fleet Motorpool policy and procedures for use of a state vehicle for assigned facility monitoring visits.
 - b. Carry out all assigned facility monitoring visits.

Policy No.: Omb-26
Effective Date: Immediately

TITLE: State of Iowa Employee Handbook

STATEMENT of POLICY: All policies and procedures of the most current State of Iowa Employee Handbook apply to Local Ombudsman. The State of Iowa Employee Handbook and any updates to the State of Iowa Employee Handbook are incorporated into the State Long Term Care Ombudsman policy manual by reference in a.

PROCEDURE:

All Local Ombudsman shall read and abide by the policies and procedures of the State of Iowa Employee Handbook. All Local Ombudsman shall also read and abide by any updates to the State of Iowa Employee Handbook in [Attachment R: State of Iowa Employee Handbook](#).

All Local Ombudsman shall execute an Acknowledgement of Receipt when new State of Iowa Employee Handbooks or updates are provided by the State of Iowa.

Policy No.: Omb-27
Effective Date: Immediately

TITLE: Policies and Procedures of the Iowa Department on Aging Employee Handbook

STATEMENT of POLICY: All policies and procedures of the most current Iowa Department on Aging Employee Handbook apply to Local Ombudsman. The Iowa Department on Aging Employee Handbook and any updates to the Iowa Department on Aging Employee Handbook are incorporated into the State Long Term Care Ombudsman policy manual by reference.

PROCEDURE:

All Local Ombudsman shall read and abide by the policies and procedures of the Iowa Department on Aging Employee Handbook. All Local Ombudsman shall also read and abide by any updates to the Iowa Department on Aging Employee Handbook in [Attachment S: IDA Employee Handbook](#).

All Local Ombudsman shall execute an Acknowledgement of Receipt when new Iowa Department on Aging Employee Handbooks or updates are provided by the Iowa Department on Aging.

Best Practice: BP-1
Effective Date: Immediately

TITLE: Routine Password Changes

STATEMENT of POLICY: Passwords must be changed for cyber security purposes.

PROCEDURE:

Outstationed Local Ombudsman frequently encounter issues that require network access reset when changing computer passwords. In order to avoid these issues Local Ombudsman should change their computer passwords five days before the deadline in password change notices.

Outstationed Local Ombudsman should also use their assigned VPN system at least one day per week, or more, to ensure computer updates are completed.

Attachments

Attachment B-1: Facility Checklist

(Go back to policy [Omb-8](#))

Facility Checklist

Facility Name: _____ **Date:** _____ **Time spent in facility:** _____
Volunteer Name: _____ **Facility contact:** _____ **Present? Y/N**

Facility		
1.	Is the current poster visibly posted? Is the information correct?	
2.	Are hallways free of obstacles (e.g., chairs, laundry carts, equipment)? Are exits blocked?	
3.	Are floors clean? If wet, are floors clearly marked?	
4.	Are there noticeable odors (e.g., cleaning supplies, cover-ups, body odors)?	
5.	Is the temperature comfortable throughout the facility?	
6.	Is there a telephone accessible to residents (for private use)?	
7.	Are personal charts/information left out in public areas?	
8.	Is the facility decorated? Seasonally appropriate? Are decorations secured to walls? Is "TODAY" clearly identified?	
9.	Are activities: posted and legibly written? Appropriate? Actually happening? Scheduled daytime/evenings?	
10.	Is there a Resident Council? Are notifications visibly posted for: Resident Council meetings? Family Council meetings?	
Residents		
11.	Residents' attire appropriate for time of day/year, temperature? Are clothes clean and in good repair fit properly?	
12.	Is residents' hair clean, combed and age/culturally appropriate? Are residents' fingernails clean and groomed?	
13.	Are residents' eyeglasses clean, intact, and available?	
14.	Are dentures clean and available? Is mouth odor evident?	
15.	Is body odor noticeable?	
16.	Are residents positioned properly in chairs, beds, etc.? Are they slouched or slumped?	
17.	Are there any visible marks (e.g., bruises, scratches, bandages)?	
18.	Are residents restrained from making voluntary movements? Are restraints used? How many?	
Residents' Rooms		
19.	Is the room clean? Well lit? Odor free? Safe? Is room personalized, decorated?	
20.	Is the call button accessible?	
21.	Is the room temperature comfortable for the resident?	
22.	Are liquid refreshments easily accessible (esp. water)?	

Facility		
23.	Does the resident have an activity schedule, know activities are available and participate in activities?	
24.	Is the bathroom clean, odor free, and safe?	
25.	Is personal information lying out in the open (e.g., charts, weight)?	
26.	If eating in the room, is it by residents' choice? Is the food easy to reach?	
Food		
27.	Do residents: appear to enjoy meals? Leave portions untouched? Have a choice of where to eat? Complain about the food? (e.g., amount, taste, temperature)?	
28.	Is the current menu posted? Is there an alternate menu? Is alternate choice made available to residents? Is food served as menu states? Are hot foods hot, cold foods cold?	
29.	Does the facility allow choice of where to eat? Follow through with the request?	
30.	Is the dining area a comfortable and relaxing place?	
31.	Are meals and snacks served at appropriate times?	
Privacy and Respect		
32.	Does staff knock prior to entering residents' rooms? Identify themselves? Wait for response? Wear nametags?	
33.	Does staff respond to calls for assistance in a timely manner (under 15 minutes)?	
34.	Does staff communicate with residents who are hearing impaired, visually impaired or non-English speaking?	
35.	Are cubicle curtains/doors closed during "cares"?	
36.	Is staff courteous and respectful to residents? Do they use condescending speech or baby talk?	
37.	Does staff display anger/frustration? Appear demanding? Talk about residents directly in front of them?	
38.	Does staff interact in general or just go about their job?	
39.	Does administrator appear to know/interact with residents? Do residents appear to know the administrator?	

Resident Visits and Comments
Resident #1
Resident #2
Resident #3
Resident #4
Resident #5
Resident #6
Resident #7
Resident #8
Additional Comments

Attachment B-2: Observation Tool

(Go back to policy [Omb-8](#))

Observation Tool

This tool is meant to help make monitoring visits productive. It is not reasonable to observe each item on each visit. You may choose one or more sections to focus on during a visit. This page may be copied and carried on a monitoring visit to help with observations and note taking.

Entering the facility

- Facility grounds are free of litter and weeds
- Lawn and landscaping are neatly trimmed
- Sidewalks and driveway are free of big cracks
- Ashtrays in smoking area are kept empty
- Facility appears clean
- Facility is odor free
- Windows are clean
- Hallways are clear of obstructions (one side of the hall should be free from obstructions or barriers)
- Floors are clean and not sticky, dirty, or slippery

Entry way (prominent place)

- Facility license is posted in a public area
- Telephone number for the Office, DIA, police, Disability Rights Iowa posted in conspicuous places in the facility
- Resident's Rights clearly posted
- Text of 135C is posted
- Last survey prominently posted

Living Environment

- There is an area where residents can visit with friends or family
- Furniture in public areas free of food spills and odors
- There are signs to clearly direct residents or visitors to their destination

Residents' rooms

- Call lights are within reach
- Call lights are answered within 15 minutes
- Resident rooms are clean, attractive, personalized and pleasant
- Bedside tables are clean
- Each resident's room has adequate light
- Lighting can adjusted by each individual resident
- Adequate closet and storage space is available for personal items
- Seating is available for visitors
- Fresh water available and within reach

Bathrooms

- Bathrooms are clean and well maintained
- Bathrooms have adequate lighting
- Grab bars are installed in each bathroom
- Soap dispenser is full
- Paper towels and toilet paper are stocked
- Gloves are available for staff

Activities

- Activity program meets the needs of the residents
- Activity calendar is clearly posted in the facility and is kept up to date
- Staff reminds residents of activities and participation is encouraged
- Staff prepares each resident for activities by helping with proper clothing, grooming and personal needs
- Activities include individual one-on-one activities, small and large group activities, community outings, promote conversation and social interaction
- Activities are individualized to promote a sense of normalcy and well-being
- Families are invited and encouraged to participate in activities
- Activities are adapted for different levels of ability and mental status
- Snacks and beverages are offered at each activity

Dining

- Dining room is clean and attractive
- Dining room furnishings are clean and odor free
- Dining room chairs are clean (including under the arms)

Dining

- Residents report adequate staff is available to assist during meal times
- Arrangements are made when a resident has special visitors for a meal
- Are residents already seated in the dining room?
- Is the dining area clean? Are table tops cleaned off? Floors clean?
- All staff in the kitchen should wear clean aprons and a hairnet
- Staff should assist the resident with personal needs prior to taking him/her to the dining room? (Change incontinent brief, assist to the bathroom)
- A resident should be asked if they would like to be taken to the dining room
- Residents should have time to wash their face and hands prior to each meal
- Is the dining room open for an extended period so each resident can eat at a preferred time?
- Once seated in the dining room the staff should take a minute to make the resident comfortable
- The arms of wheelchairs should fit **under** the table so the resident can get close enough to the table to eat, or each resident should be transferred to a dining room chair
- Residents should be served very soon after arriving in the dining room
- Beverages should be served immediately prior to the meal time and replenished as needed
- When residents are taken to the dining room more than 15 minutes prior to the meal service, an activity or entertainment should be offered
- Draw a diagram of the dining room
- Mark the exact time in your notes
- Select a number of people to observe
- Mark their seats on your chart
- Next to the seat, indicate the exact time they entered the dining room, and the manner in which they arrived. (Escorted in a wheelchair by staff, walked in independently, and walked in with assistance of staff)
- Indicate the exact time he/she is served the meal
- Indicate the exact time he/she is able to start eating. (did staff open cartons, etc. upon delivery, or are trays delivered and assistance provided later)
- Staff should not touch the food of a resident with bare hands
- If staff are wearing gloves and have touched other items, they should not touch the food without clean gloves
- Residents may eat in their room if they desire. Some staff members should remain on the floor to answer call lights and assist those eating in their rooms. All other staff members should be in the dining room

Dining

- Substitute foods should be offered to anyone requesting an alternate choice, and to anyone not eating the foods served
- Staff should immediately assist a resident when the meal is served so that the foods stay at the correct temperature
- Staff should prompt residents who do not appear to be eating
- Walk through the dining room and make some comments to residents like “It sure smells good in here. Does the food taste as good as it smells?” Document your responses
- When finished eating, residents should be given time to wash their face and hands.
- Look at the plate when a resident finishes the meal. How much did this person eat? Does the staff seem concerned? If you know this resident, does he/she appear to have lost weight?
- Does the nurse pass supplemental liquids prior to a meal? If so, is the resident too full to eat?
- Staff should always double check to make certain every resident is in the dining room and no one is forgotten
- Clothing with food spills should be replaced (exception: a person with dementia or a person in severe pain may be better left alone)
- Residents should receive assistance with personal needs following the meal
- Residents should be allowed enough time to eat, and should not be rushed from the dining room, nor should a resident be left for long periods of time following the meal
- Residents should not be lined up in a hallway waiting for assistance
- Staff members who feed a resident should identify foods and beverages before placing it in the residents’ mouth

Dietary

- Each meal is pleasing to the eye
- Hot food is hot and cold food is cold
- Residents report being satisfied following the meal
- Selections of beverages made available
- Assistance is provided immediately as needed
- Alternate choices and substitute menu items are always available upon request and are offered to those not eating the meal items served
- Menus are clearly posted and are up to date
- Meals and snacks are served at the times posted
- Snacks are available upon resident request

Quality of life

- Residents are not left sitting unattended in common areas for a long periods of time
- Residents in wheelchairs located so they can request assistance
- There is a system in place for residents sitting in common areas to call staff
- Cushions are used to help residents sit/lay comfortably
- Residents report being active and involved in the daily life of the facility
- Adaptive equipment is conveniently located, clean and appears to be in good condition
- Temperature is comfortable for each individual resident
- Residents are well groomed, shaved, hair is combed, eyeglasses are clean and appear to fit comfortably
- Teeth and dentures appear clean and comfortable
- Residents clothing is clean, dry and appropriate
- Residents appear calm, content and comfortable in their surroundings
- Residents receive personal mail unopened
- Residents have access to a telephone where they can have private conversations
- Residents report that individual spiritual, emotional, social needs are met
- Individual TVs and radios are tuned to the residents' choice of stations
- TVs and radios in common areas are tuned to stations suitable for residents
- Visiting hours are not restricted on a routine basis
- Visitors are welcomed

Staff

- Staff appears clean, neat and odor free
- Residents report that staff is kind and gentle
- Staff appears comfortable with residents, and converses easily with them
- Staff members can identify individual residents
- Staff is visible and available
- Staff can be easily identified by their uniforms
- Staff wears name tags or identifying information
- Staff appears happy and friendly
- Staff is respectful to residents, visitors and co-workers

CCDI/special care units

- A variety of activities are offered frequently throughout the day and evening
- Residents with dementia receive individual assistance when participating in activities
- There is a system in place to assess residents with dementia (since they may not remember to use a call light or get a drink of water)
- Beverages and snacks are offered frequently throughout the day and evening
- Residents rooms are individualized and personal
- A variety of signage is used to help residents find their way around the unit
- Residents are encouraged to participate in facility activities
- Staff have a variety of techniques to assist residents with dementia
- The unit is quiet without unnecessary traffic or noise
- Staff is easily identified
- Residents are treated with dignity, courtesy and respect
- Prompting and cueing is done quietly and discreetly
- Residents are encouraged to participate in frequent social activities
- Meals are served according to each individual needs (each food in a separate bowl, plates are a contrasting color, choices are offered, finger food provided to those who cannot sit long enough to eat)
- Staff is available to assist individual residents with meal time challenges
- Residents are encouraged to eat

Attachment C: DIA Complaint Form
(Go to policy [Omb-4](#) or see next page for usable form)



Office of the State Long-Term Care
OMBUDSMAN
Established within the Iowa Department on Aging

Jessie Parker Building
510 E 12th Street, Ste. 2
Des Moines, IA 50319
515.725.3333 | 866.236.1430
www.iowaaging.gov

To: Health Facilities Division
Iowa Department of Inspections and Appeals

From: _____, Local Long-Term Care Ombudsman

Cc: Cynthia Pederson, J.D.
State Long-Term Care Ombudsman

Date: _____

Facility name and location:

Resident(s) name: _____

Complaint(s):

Attachment D: Physician Power Of Attorney Statement

(Go back to policy [Omb- 12](#) or see next page for usable form)



**Physician's Recommendation for Implementation of
Durable Power of Attorney for Health Care**

Patient Name: _____

DOB: _____

Dr. Name: _____

Address: _____

Telephone Number: _____

Is patient able to make health care decisions for him/herself?

Yes ☐

Yes, with limitations ☐

No ☐

If YES, with limitations, what health care decisions can the patient make for him/herself?

Would you recommend that the existing durable power of attorney for health care take effect?

Yes ☐

No ☐

Physician Signature

Date

Attachment E.1: Individual Conflicts of Interest Form

(Go back to policy [Omb-5.1](#) or see next page for usable form)

Office of the State Long-Term Care Ombudsman
Conflicts of Interest Form

1. Do you currently work, or have you previously worked for a managed care organization, long term care facility, assisted living program, or elder group home or participated in the management, ownership, or operation of that entity within the previous year? ☐ Yes ☐ No

If yes, please provide the name of the entity, the position held, and the duties associated with this role:

2. Do any of your immediate* family members currently work, or have previously worked for a managed care organization, long term care facility, assisted living program, or elder group home or participated in the management, ownership, or operation of that entity within the previous year? ☐ Yes ☐ No

If yes, please provide the name of the entity, the position held, and the duties associated with this role:

3. Have you owned, operated or had any investment interest in any existing or proposed managed care organization, long term care facility, assisted living program, or elder group home in the previous two years? ☐ Yes ☐ No

If yes, please explain: _____

4. Have any of your immediate family members owned, operated or had an investment interest in any existing or proposed managed care organization, long term care facility, assisted living program, or elder group home in the previous two years? ☐ Yes ☐ No

If yes, please explain: _____

5. Have you been involved in the licensing, surveying or certification of a managed care organization, long term care facility, assisted living program, or elder group home in the previous one year? ☐ Yes ☐ No

If yes, please explain: _____

6. Have any of your immediate family members been involved in the licensing, surveying or certification of a managed care organization, long term care facility, assisted living program, or elder group home in the previous one year?

☐ Yes ☐ No If yes, please explain: _____

7. Have you received, or have the right to receive remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility or a managed care organization within the previous two years?

☐ Yes ☐ No If yes, please explain: _____

8. Have any of your family members received, or have the right to receive remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility or a managed care organization within the previous two years?
☐ Yes ☐ No If yes, please explain: _____
9. Have you received any form of payment, gift, or gratuity of significant value from a managed care organization, long term care facility, assisted living program, or elder group home, operator, resident, tenant, or resident/tenant representative in the previous two years?
☐ Yes ☐ No If yes, please explain: _____
10. Have any of your immediate family members received any form of payment, gift, or gratuity of significant value from a managed care organization, long term care facility, assisted living program, or elder group home owner, operator, resident, tenant, or resident/tenant representative in the previous two years?
☐ Yes ☐ No If yes, please explain: _____
11. Have you accepted money or any other consideration from anyone other than an entity approved by the SLTCO for the performance of the Office of the State Long-Term Care Ombudsman program duties with the previous two years?
☐ Yes ☐ No If yes, please explain: _____
12. Have you provided a provision of service with an outside employer that may conflict with the duties of a Representative of this Office within the previous one year?
13. Have you provided services to residents of a facility or tenants of an assisted living or elder group home in which a member of your immediate family resides within the previous two years? ☐ Yes ☐ No
If yes, please explain: _____
14. Have any of your immediate family members provided services to residents of a facility or tenants of an assisted living or elder group home in which a member of your immediate family resides within the previous two years? ☐ Yes ☐ No If yes, please explain: _____
15. Have you served as a guardian or other surrogate decision-maker for a resident/tenant residing in a facility within the previous one year?
☐ Yes ☐ No If yes, please explain: _____
16. Have any of your immediate family members served as a guardian or other surrogate decision-maker for a resident/tenant located within the previous one year?
☐ Yes ☐ No If yes, please explain: _____

17. Have you resided in a long term care facility, assisted living or elder group home within the previous two years? ☐ Yes ☐ No If yes, please provide the name and location of the entity: _____
18. Have any of your immediate family members or friends resided in a long term care facility, assisted living or elder group home within the previous two years? ☐ Yes ☐ No
If yes, please provide the name and location of the entity: _____
19. Have you participated in activities which could negatively affect your ability to serve residents/tenants/Medicaid members or which are likely to create a perception that your primary interest is other than as an advocate of the resident/tenant/members within the previous one year?
☐ Yes ☐ No If yes, please explain: _____
20. Have any of your immediate family members participated in activities which could negatively affect your ability to serve residents/tenants/Medicaid members or which are likely to create a perception that your primary interest is other than as an advocate of the resident/tenant/member within the previous one year? ☐ Yes ☐ No
If yes, please explain: _____
21. Do you have part-time employment that would create the perception that you could not advocate for residents, tenants or Medicaid members? ☐ Yes ☐ No
If yes, please provide the name and location of your employer and include your job title and responsibilities. _____
22. Have you had a founded child or dependent adult abuse report against you since your initial employment with the state? ☐ Yes ☐ No If yes, please provide additional information: _____
23. Have you had a criminal conviction against you since your initial employment with the state?
☐ Yes ☐ No If yes, please provide additional information: _____

Name (printed): _____

Signature: _____

Date: _____ Reviewed on: _____ Reviewed on: _____ Reviewed on: _____

**Please note when answering the questions: Immediate family means a member of the household or a relative with whom there is a close personal or significant financial relationship.*

Attachment E.2: Waiver for Individual Conflicts of Interest

(Go back to policy [Omb-5.1](#) or see next page for usable form)



**Waiver for Conflicts of Interest
MEMORANDUM**

TO: Representative _____
FROM: Ombudsman _____
RE: Conflicts of Interest _____
DATE: _____

The following conflicts of interest has been identified:

(Describe the conflicts of interest that has been identified. Include details on who the conflict involves, which facility the conflict relates to, if applicable, and the dates that the conflict occurred.)

Can this conflict be remedied or removed? ☐ YES ☐ NO

Through review of these circumstances, the following remedy will be implemented:

(Describe the remedy and detail how the Representative will be objective for the residents/tenants/members served.)

Approval of Waiver Signature

Signature indicates that the Ombudsman has reviewed the conflicts of interest and the remedy with the Representative. The Ombudsman and the Representative acknowledge that the conflict will not adversely affect the role of the Representative or any resident/tenant/member and will be reviewed within 6 months and yearly, thereafter.

Representative Signature

Ombudsman Signature

Attachment E.3: Organizational Remedy
(Go back to policy [Omb-5.2](#))

Organizational Conflict of Interest Remedy

An organizational conflict of interest exists for Iowa as the Office of Public Guardian and the Office of the State Long-Term Care Ombudsman (OSLTCO) are both located within the State Unit on Aging. Additional conflicts of interest may exist within the long-term care services programming and elder abuse intervention services provided by the Area Agencies on Aging (AAAs) and the Iowa Department on Aging (IDA). Due to this organizational conflict and potential conflict of interests, the state agency and the office developed a remedy to remove such conflicts. Specific internal protocols for referrals sharing/non-sharing of case information and other perceived appearances of conflict have been addressed in this remedy.

OSDM may at times serve as a decision maker for residents in long-term care facilities. IDA and AAAs may provide services or programming which can indirectly impact residents of long-term care facilities. The following steps will be taken to remedy conflicts of interest within the organization:

1. All Representatives of the Office (Representatives) may make appropriate referrals to OSDM, IDA and AAAs when long-term care facility staff need substantive information on guardianship, conservatorship, and other decision making services as well as aging services programming;
2. All Representatives shall make appropriate referrals upon consent of the resident or tenant;
3. Representatives shall not acknowledge involvement with a resident/tenant or discuss complaints specific to a case without resident/tenant permission;
4. Representatives shall not share case notes/legal notices or other pertinent information with staff of the OSDM, IDA, or AAAs without resident/tenant permission;
5. Representatives that do reach out for guidance on the law or services will speak in generalities and never share case specific information without resident/tenant permission;
6. Case management systems will be separate and distinct and Representatives shall not allow access to the Office's case management system to OSDM, IDA or AAA staff. File systems that rely upon a hard copy case file will be locked to limit access and availability to confidential information;
7. The State Agency will ensure that the Office and the OSDM are located within separate divisions and are led by different managers. This remedy will be reviewed by the Director of the state unit and all managers, including the Ombudsman, on a periodic basis;
8. The Office, OSDM, IDA, and AAAs will not impede the work processes of the other entities;

9. The Office and its representatives will not be involved in determining contracts, monitoring contracts or determining funding formulas for the OSDM or AAAs.

Attachment F: Ombudsman Access and Interference Penalties
(Go back to policy [Omb-14](#))

Ombudsman Access and Interference Penalties

Statute References: 42 U.S.C. 3058g
Iowa Code § 231.42
17 Iowa Administrative Code 8

42 U.S.C. 3058g (OAA 712(b))

(b) PROCEDURES FOR ACCESS.—

(1) IN GENERAL.—The State shall ensure that representatives of the Office shall have—

(A) access to long-term care facilities and residents;

(B)(i) appropriate access to review the medical and social records of a resident, if—

(I) the representative has the permission of the resident, or the legal representative of the resident; or

(II) the resident is unable to consent to the review and has no legal representative; or

(ii) access to the records as is necessary to investigate a complaint if—

(I) a legal guardian of the resident refuses to give the permission;

(II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

(III) the representative obtains the approval of the Ombudsman;

(C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and

(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

(2) PROCEDURES.—The State agency shall establish procedures to ensure the access described in paragraph (1).

Iowa Code 231.42

5. *Access to long-term care facility, assisted living program, or elder group home and residents and tenants.* The state or a local long-term care ombudsman or a certified volunteer may enter any long-term care facility, assisted living program, or elder group home at any time with or without prior notice or complaint and shall be granted access to residents and tenants at all times for the purpose of carrying out the duties specified in this section. As used in this section, “access” means the right to do all of the following:

- a. Enter any long-term care facility, assisted living program, or elder group home and provide identification.
- b. Seek consent from the resident, tenant, or legal representative to communicate privately and without restriction with any resident, tenant, or legal representative.
- c. Communicate privately and without restriction with any resident, tenant, or legal representative.
- d. Review the medical, social, or other records of a resident or tenant.

- e. Observe all resident or tenant areas of a long-term care facility, assisted living program, or elder group home except the living area of any resident or tenant who protests the observation.
6. *Access to medical and social records.*
- a. The state or a local long-term care ombudsman shall have access to the medical and social records of a resident or tenant if any of the following applies:
 - (1) The state or local long-term care ombudsman or certified volunteer long-term care ombudsman has permission of the resident or tenant, or the legal representative of the resident or tenant,
 - (2) The resident or tenant is unable to consent to the access and has no legal representative,
 - (3) Access to the records is necessary to investigate a complaint if all of the following apply:
 - (a) A legal representative of the resident or tenant refuses to give the permission.
 - (b) The state or local long-term care ombudsman or a certified volunteer long-term care ombudsman has reasonable cause to believe that the legal representative is not acting in the best interest of the resident or tenant.
 - (c) The local long-term care ombudsman or a certified volunteer long-term care ombudsman obtains the approval of the state long-term care ombudsman.
 - b. Records may be reproduced by the state or a local long-term care ombudsman.
 - c. Upon request of the state or a local long-term care ombudsman, a long-term care facility, assisted living program, or elder group home shall provide the name, address, and telephone number of the legal representative or next of kin of any resident or tenant.
 - d. A long-term care facility, assisted living program, or elder group home or personnel of such a facility, program, or home who discloses records in compliance with this section and the procedures adopted pursuant to this section shall not be liable for such disclosure.
7. *Access to administrative record.*
- a. Pursuant to the federal Act, the state or a local long-term care ombudsman or a certified volunteer shall have access to the administrative records, policies, and documents of the long-term care facility, assisted living program, or elder group home, which are accessible to residents, tenants, or the general public.
 - b. Pursuant to the federal Act, the state or a local long-term care ombudsman or a certified volunteer shall have access to, and upon request, copies of all licensing and certification records maintained by the state with respect to a long-term care facility, assisted living program, or elder group home.
8. *Interference prohibited – penalties.*
- a. An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the work of the state or a local long-term care ombudsman or a certified volunteer

is subject to a penalty imposed by the director of not more than one thousand five hundred dollars for each violation. If the director imposes a penalty for a violation under this paragraph, no other state agency shall impose a penalty for the same interference violation. Any moneys collected pursuant to this subsection shall be deposited in the general fund of the state.

- b. The office of long-term care ombudsman shall adopt rules specifying procedures for notice and appeal of penalties imposed pursuant to this subsection.
 - c. The director, in consultation with the office of long-term care ombudsman, shall notify the county attorney of the county in which the long-term care facility, assisted living program, or elder group home is located, or the attorney general, of any violation of this subsection.
9. *Retaliation prohibited – penalties.* An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home shall not retaliate against any person for having filed a complaint with, or provided information to, the state or a local long-term care ombudsman or a certified volunteer. A person who retaliates or discriminates in violation of this subsection is guilty of a simple misdemeanor.

Attachment G: Formal Grievance Form
(Go back to policy [Omb-18](#))

Formal Grievance Policy

Grievances against a Representative of the Office shall be accepted from any person or entity. The Office shall abide by relevant federal and state confidentiality requirements when responding to grievances. Submission of a formal grievance will require the complainant to identify him/herself.

Upon receipt of a completed Formal Grievance Form:

- The applicable representative of the Office will be notified of the grievance.
- The Ombudsman will investigate the allegation by contacting the applicable parties to determine the validity of the complaint and what further action is needed, if any.
- Within 30 calendar days of receipt of the Formal Grievance Form, written follow up will be provided to the complainant and the Representative.

Reconsideration

A complainant who is dissatisfied with the findings may make a written request for reconsideration by providing additional information to the State Long-Term Care Ombudsman (Ombudsman) and outlining the reason for the request. The request for reconsideration must be filed within 15 calendar days of the date of the formal grievance findings to be considered. The Ombudsman shall review the request for reconsideration and determine if further investigation is needed. The Ombudsman shall make the final determination regarding the formal grievance. Within 30 days of the request for reconsideration, written follow up will be provided to the complainant and the Representative.

Formal Grievance Forms may be submitted by mail or fax to:

Ombudsman

Office of the State Long-Term Care Ombudsman

510 E. 12th Street, Suite 2

Des Moines, IA 50319

Fax: 515.725.3313

Name of Complainant: _____

Mailing address: _____

E-mail address: _____

Contact telephone number: _____

Name of Representative of the Office: _____

Complainant's relationship to the Representative of the Office: _____

Long-term care facility associated with grievance: _____

Date(s) grievance occurred: _____

Description of grievance—please be as detailed as possible, you may attach a written description or supporting documents to this form.

[illegible]

Signature _____ Date _____

Return Formal Grievance Form to:

Ombudsman

Office of the State Long-Term Care Ombudsman

510 E. 12th Street, Suite 2

Des Moines, IA 50319 or fax 515-725-3313

Attachment H.1: Consent and Authorization Form

(Go back to policy [Omb-7](#) or see next page for usable form)

(Go back to policy [Omb-19](#) or see next page for usable form)

Consent and Authorization Form

Name: _____ Date: _____

_____, gives consent to _____ (Name of the Representative of the Office) and the Office of the State Long-Term Care Ombudsman (Office) to disclose confidential files, records or other information maintained by the Office.

The authorization to disclose confidential files, records, and other information maintained by the Office applies to:

- ☐ My name and address
- ☐ The file developed by the Office when pursuing my concerns
- ☐ Medical condition
- ☐ Medical history
- ☐ Source of payment
- ☐ Personal life circumstances relevant to the concerns brought forward
- ☐ Social history (occupation, residences, information about family)
- ☐ Other: _____

This consent automatically expires when the activities I have authorized the Office to conduct are completed or one (1) year from date of my signature, whichever is sooner.

I understand that I may revoke my consent at any time by informing the Representative of the Office working with me. I also understand that this revocation does not apply to information already disclosed by the Office.

Signature: _____ Date: _____

Resident Representative or Tenant Legal Representative Signature (if applicable):

_____ Date: _____

Representative of the Office signature if informed consent is obtained orally, visually, or through the use of auxiliary aids and services:

_____ as told to _____ Date: _____
(Resident/Tenant/Complainant Name) (Representative of the Office)

YOUR PRIVACY RIGHTS

The Office of the State Long-Term Care Ombudsman (Office) operates under a federal law that requires strict confidentiality. This document explains your privacy rights under this law and other state and federal privacy laws. These laws protect your privacy and limit how we may use the information we gather about you. It applies to all future contacts you have with this Office. Those contacts may be in person, by US mail, fax, e-mail or telephone.

WHY DO WE ASK FOR INFORMATION?

We may ask you for information so we can:

- Help you resolve your concern or complaint.
- Make reports, do research, audit and evaluate our program.

Do you have to answer the questions we ask?

No, the law does not require you to give us information.

What will happen if you do not answer the questions?

It is helpful to have as much information as possible in order to assist you. Without complete information, it may impede on the ability to advocate on your behalf.

May we give information about you to others?

All information you give us is kept confidential. This means that we will not give your information to anyone, other than a Representative of the Office, without your informed consent, your resident representative or tenant legal representative's consent, or by court order.

You have the right to information we have about you.

- You may ask if we have information about you.
- If we have information about you, you may ask for copies.
- If the information is unclear, you may ask to have it explained to you.

If you have questions about your privacy rights, ask a Representative of the Office.

Attachment H.2 Consent to Disclose Involvement Form

(Go back to policy [Omb-7](#) or see next page for usable form)

Consent to Disclose Involvement Form

Name: _____ Date: _____

_____, gives consent to _____ (Name of the Representative of the Office) and the Office of the State Long-Term Care Ombudsman (Office) to discuss their involvement with my case.

This authorization specifically allows a Representative of the Office of the State Long-Term Care Ombudsman to acknowledge interactions with me and with others conducted on my behalf. In addition, this authorization allows the Representative to share with _____ (party to whom disclosure is authorized), the issues and concerns that the Representative addressed on my behalf and any actions taken in an effort to find resolution.

This consent automatically expires when the activities I have authorized the Office to conduct are completed or one (1) year from date of my signature, whichever is sooner.

I understand that I may revoke my consent at any time by informing the Representative of the Office working with me. I also understand that this revocation does not apply to information already disclosed by the Office.

Signature: _____ Date: _____

Resident Representative or Tenant Legal Representative Signature (if applicable):

_____ Date: _____

Representative of the Office signature if informed consent is obtained orally, visually, or through the use of auxiliary aids and services:

_____ as told to _____ Date: _____
(Resident/Tenant/Complainant Name) (Representative of the Office)

YOUR PRIVACY RIGHTS

The Office of the State Long-Term Care Ombudsman (Office) operates under a federal law that requires strict confidentiality. This document explains your privacy rights under this law and other state and federal privacy laws. These laws protect your privacy and limit how we may use the information we gather about you. It applies to all future contacts you have with this Office. Those contacts may be in person, by US mail, fax, e-mail or telephone.

WHY DO WE ASK FOR INFORMATION?

We may ask you for information so we can:

- Help you resolve your concern or complaint.
- Make reports, do research, audit and evaluate our program.

Do you have to answer the questions we ask?

No, the law does not require you to give us information.

What will happen if you do not answer the questions?

It is helpful to have as much information as possible in order to assist you. Without complete information, it may impede on the ability to advocate on your behalf.

May we give information about you to others?

All information you give us is kept confidential. This means that we will not give your information to anyone, other than a Representative of the Office, without your informed consent, your resident representative or tenant legal representative's consent, or by court order.

You have the right to information we have about you.

- You may ask if we have information about you.
- If we have information about you, you may ask for copies.
- If the information is unclear, you may ask to have it explained to you.

If you have questions about your privacy rights, ask a Representative of the Office.

Attachment I.1: Checklist for Disclosure

(Go back to policy [Omb-19](#) or see next page for usable form)

Checklist for Disclosure of Files, Records, or Other Information of the Office

To be completed by a Representative of the Office

- Date of request: _____
 - Person who received request: _____
 - Date Ombudsman was made aware of request: _____
 - Method of request: _____
 - Information being requested: _____
 - Reasons for request: _____
- _____

To be completed by the Ombudsman

- Informed Consent received? (one of the following must apply):
 - The resident, resident representative, tenant, tenant legal representative, complainant, or complainant representative consents to the disclosure and the consent is given in writing or through the use of auxiliary aids and services. (See [Consent and Authorization Form](#)).
 - Date given: _____
 - Consent given by: _____
 - The resident, resident representative, tenant, tenant legal representative, complainant, or complainant representative gives informed consent orally, visually, or through the use of auxiliary aids and service and such consent is documented contemporaneously on the Consent and Authorization Form by a representative of the Office. (See [Consent and Authorization Form](#)).
 - Date given: _____
 - Consent given by: _____

- The disclosure is required by a court order.
 - Type of court order: _____
 - Date of court order: _____
 - Date response is needed by: _____
 - Date legal counsel contacted: _____

Note: *The identity of and confidential information related to other residents, tenants, or complainants for whom informed consent to disclose has not been received will be redacted.*

- Informed Consent cannot be received and (one of the following must apply):
 - Reasonable cause exists to believe an action, inaction, or decision has occurred which may adversely affect the health, safety, welfare, or rights of resident or tenant;
 - No evidence exists that the resident or tenant would not wish a referral or disclosure to be made;
 - Ombudsman and the Representative have reasonable cause to believe that it is in the best interests of the resident or tenant to disclose.
- Date Office legal counsel was made aware of request: _____
- Date the person making the request was notified of decision: _____

Attachment I.2: Criteria to Guide Disclosure of Files, Records or Other Confidential Information of the Office of the State Long-Term Care Ombudsman

(Go back to policy [Omb-7](#))

(Go back to policy [Omb-19](#))

Criteria to Guide Disclosure

If the request for files, records, or other information is made by...	Then the Ombudsman shall...
A resident or tenant	<p>Disclose the file, record, and other information maintained by the Office which are directly relevant to that resident/tenant or complainant, only after determining that:</p> <ul style="list-style-type: none"> a. the request was properly made and documented; b. the resident or tenant and complainant (if applicable) gave informed consent verbally or in writing or by use of auxiliary aids and services and a Consent and Authorization Form has been completed; and c. the identity of and confidential information related to other residents/tenants or a complainant is redacted.
A resident representative or tenant legal representative or complainant legal representative	<p>Disclose the file, record, and other information maintained by the Office which are directly relevant to that resident/tenant/ or complainant, provided that:</p> <ul style="list-style-type: none"> i) the request was properly made and documented; ii) verification that the representative has the authority to act is received; iii) the representative gave informed consent verbally or in writing or by use of auxiliary aids and services and a Consent and Authorization Form has been completed; iv) after conversing with the resident/tenant or Representative of the Office and reviewing documentation in the approved documentation system, the Ombudsman has no reason to believe that the resident representative or tenant legal representative or complainant legal representative is not acting in the best interests of the resident/tenant; and v) The identity of and confidential information related to other residents/tenants or complainants is redacted.
Complainant	<p>Disclose the file, records, or other information maintained by the Office which are directly relevant to that resident, tenant, or complainant provided that:</p> <ul style="list-style-type: none"> i) the request was properly made and documented; ii) proper informed consent was obtained according to the following guidelines: <ul style="list-style-type: none"> a) the complainant gave informed consent orally or in writing or by use of auxiliary aids and services and a Consent and Authorization Form has been completed; and b) the resident/tenant gave informed consent orally or in

If the request for files, records, or other information is made by...	Then the Ombudsman shall...
	<p>writing or by use of auxiliary aids and services and a Consent and Authorization Form has been completed;</p> <p>c) For residents or tenants who cannot give informed consent, permission to disclose will need to be sought from an authorized resident representative or tenant legal representative and a completed Consent and Authorization Form received by the Office. Prior to disclosure, however, the Ombudsman will converse with the Representative of the Office and review documentation in the approved documentation system in an attempt to ensure that there is no reason to believe that the resident representative or tenant legal representative is not acting in the best interests of the resident/tenant.</p> <p>iii) after conversing with the resident/tenant or Representative of the Office and reviewing documentation in the approved documentation system, the Ombudsman has no reason to believe that the release shall be in conflict with the wishes or interest of the relevant resident/tenant; and</p> <p>iii) The identity of and confidential information related to other residents/tenants or complainants is redacted.</p>

If the request for files, records, or other information is made by...	Then the Ombudsman shall...
<p>Another agency, program, or law enforcement</p>	<p>Disclose the files, records, or other information maintained by the Office which are directly relevant to the request provided that:</p> <ul style="list-style-type: none"> i) the purpose of the disclosure is for one of the following two reasons: <ul style="list-style-type: none"> a) for such agency, program, or law enforcement entity to substantiate the facts for regulatory, protective services, enforcement of laws, or other purposes; or b) The Ombudsman or Representative of the Office has reasonable cause to believe that the resident representative or tenant legal representative has taken an action, inaction, or made a decision that may adversely affect the health, safety, welfare, or rights of the resident or tenant. ii) the request was properly made and documented; iii) the identity of and confidential information related to other residents/tenants or complainants is redacted; and iv) proper informed consent was obtained according to the following guidelines: <ul style="list-style-type: none"> a) the resident/tenant/complainant gave informed consent orally or in writing or by use of auxiliary aids and services and a Consent and Authorization Form has been completed; or b) where the resident/tenant is unable to communicate informed consent and has a resident representative or tenant legal representative or there is no resident representative or tenant legal representative under the following circumstances: <ul style="list-style-type: none"> I) The Ombudsman or Representative of the Office has reasonable cause to believe that the resident or tenant legal representative has taken an action, inaction, or decision that may adversely affect the health, safety, welfare, or rights of the resident or tenant; II) The Ombudsman or Representative of the Office has no evidence indicating that the resident/tenant would not wish a referral or disclosure of the file, records, or other information maintained by the Office to be made; and III) The Ombudsman or Representative of the Office has reasonable cause to believe that it is in the best interest of the resident/tenant to disclose the files, records, or other information maintained by the Office.

If the request for files, records, or other information is made by...	Then the Ombudsman shall...
The Court	Disclose the files, records, or other information maintained by the Office which are directly responsive to a court order only after conferring with legal counsel. The court order shall be responded to with an explanation of the confidential nature of the requested files, records or other information and a request to seal the records where the Ombudsman determines that the release of files, records, or other information would be inconsistent with the wishes or interest of the resident, tenant or complainant.
Any other party	Disclose the files, records, or other information maintained by the Office which are directly related to that resident, tenant, or complainant provided that: <ul style="list-style-type: none"> i) the request was properly made and documented; ii) the resident/tenant or the resident representative or tenant legal representative or complainant/complainant representative gave informed consent orally or in writing or by use of auxiliary aids and services and a Consent and Authorization Form has been completed; (iii) the disclosure is required by court order; and iii) The identity of and confidential information related to other residents/tenants or complainants is redacted.

IF the request was made as...	THEN the Ombudsman shall...
a general written request	follow the steps as outlined above
a formal discovery request	<ul style="list-style-type: none"> i) follow the steps as outlined above; ii) contact and consult with legal counsel; iii) provide legal counsel with information sufficient to determine a legal course of action.
an open records request	<ul style="list-style-type: none"> i) follow the steps as outlined above; ii) contact and consult with legal counsel; iii) respond to the request according to the procedures set forth in the Iowa Open Records Act. <p>NOTE: where federal requirements conflict with Iowa law, the federal requirements take precedence.</p>

IF the request was made as...	THEN the Ombudsman shall...
a subpoena	i) follow the steps as outlined above; ii) contact and consult with legal counsel; iii) determine if a Motion to Quash is an appropriate response to the subpoena by reviewing the wishes and interests of the resident, tenant, and/or complainant. (See Attachment J.1 : Response Letter to Subpoena and Attachment J.2 : Motion to Quash)
a court order	i) contact and consult with legal counsel; ii) determine an appropriate response; iii) The court order shall be responded to with an explanation of the confidential nature of the requested files, records or other information and a request to seal the records where the Ombudsman determines that the release of files, records, or other information would be inconsistent with the wishes or interest of the resident, tenant or complainant.

Attachment I.3: Checklist To Guide Ombudsman for Disclosure

(Go back to policy [Omb-7](#) or see next page for usable form)

(Go back to policy [Omb-19](#) or see next page for usable form)

Checklist to Guide the Ombudsman in Determining Whether to Disclose the Files, Records, or Other Information of the Office

What information is being requested? (Medical, Social, and other records of the resident/tenant; administrative records, policies, and documents of the long-term care facility; licensing and certification records; or data collected in the Office case management system.)

Does the file, record or other information requested include any identifying or confidential information of this resident/tenant or complainant? Yes ☐ No ☐

Does the file, record or other information requested include identifying information or confidential information of other residents/tenants or complainants? Yes ☐ No ☐

Does the Ombudsman have any reason to believe that the release shall be in conflict with the wishes or interest of the relevant resident/tenant? Yes ☐ No ☐

○ If so, why?

Does the Ombudsman have reason to believe that the resident representative or tenant legal representative has taken an action, inaction, or made a decision that may adversely affect the health, safety, welfare, or rights of the resident or tenant? Yes ☐ No ☐

Does the Ombudsman have reason to believe that it is in the best interest of the resident or tenant to disclose the file, record or other information? Yes ☐ No ☐

Does the Ombudsman have reason to believe that it is in the best interest of the resident or tenant to make a referral to another agency, program or law enforcement to protect the health, safety, welfare or rights of the resident or tenant? Yes ☐ No ☐

Will the release of records benefit residents or tenants in long-term care facilities? Yes ☐ No ☐

What will be the potential benefit to the resident or tenant?

What will be the potential detriment to the resident or tenant or complainant?

What will be the potential benefit to other residents or tenants in the facility or program?

What will be the potential detriment to other residents or tenants in the facility or program?

How likely is it that the resident or tenant or complainant's identity would be discovered even with names and situations redacted?

Is the potential for injury to the Representative of the Office and the resident or tenant relationship greater than the benefit of disclosure? Yes ☐ No ☐

Is there a potential for retribution to the resident or tenant? Yes ☐ No ☐

What information does the Office have that is not available elsewhere?

How much time/effort would be involved in complying with the request? (Would it significantly detract from the representative of the Office's ability to advocate for other residents and tenants)?

Does the program have the resources to file legal motions or actions? Yes ☐ No ☐ What is the likely outcome?

Is the request sufficiently specific and narrow so that the impact on confidentiality is limited?

Yes ☐ No ☐

Is the information being sought for a retaliatory purpose? Yes ☐ No ☐

Is the information being sought to better advocate or improve the quality of life for residents or tenants or to respond to employer and employee issues? Yes ☐ No ☐

Attachment J.1: Response Letter to Subpoena

(Go back to [Attachment I.2](#) or see next page for usable form)

Click here to enter a date.

Click here to enter text.

Click here to enter text.

Click here to enter text.

Dear Click here to enter text.,

This letter acknowledges the receipt of the subpoena to appear as a witness in Click here to enter text., which was served on Click here to enter text. of the Click here to enter text. regarding Click here to enter text. or to produce confidential records.

Please be advised that pursuant to 42 USC 3058g(d)(2)(b), 42 CFR 1324; and Iowa Code 231.42 our Office is prohibited from disclosing any identifying information of any resident, tenant or complainant with respect to whom the Office maintains files, records or other information except by consent or court order.

To obtain a file, record, and other information maintained by the Office or to request testimony from a representative of the Office, the State Long-Term Care Ombudsman or designee will review the request and determine if such information will be released.

In light of the foregoing provisions, Click here to enter text. will appear at the Click here to enter text. **but would be unable to release** any Office files, records, or other information without informed consent from all relevant parties or a detailed court order. If you have any questions, please contact me at Click here to enter text..

Sincerely,

Click here to enter text.

Click here to enter text.

Attachment J.2: Motion to Quash

(Go back to [Attachment I.2](#))

**BEFORE THE CIVIL RIGHTS COMMISSION
FOR THE CITY OF _____**

)
) Case Nos.
)
) Complainants,
)
) **MOTION TO QUASH SUBPOENA**
)
)
)
) Respondents.)
)

COMES NOW Iowa State Long-Term Care Ombudsman, on behalf of _____, Local Long Term Care Ombudsman, and under Iowa Rule of Civil Procedure 1.701(4)(d)(1)(3), moves to quash a subpoena compelling _____ to testify in the above-captioned matter. In support of his/her motion, he/she states as follows.

1. On DATE , LLTCO received a subpoena in the above-captioned matter, compelling him/her to testify on DATE concerning the _____.

2. NAME LLTCO is a Local Long Term Care Ombudsman, a position created by Iowa Code § 231.42 and a federal statute, 42 U.S.C. § 3058g. Federal law requires that Iowa provide long term care ombudsman services in order to receive certain federal funds to assist elder Iowans. 42 U.S.C. § 3058g(a)(1).

3. Long-Term Care Ombudsmen are advocates for residents of nursing homes, board and care homes, assisted living facilities and similar adult care facilities. They work to resolve problems of individual residents and to bring about changes at the local, state and national levels that will improve residents' care and quality of life. Begun in 1972 as a demonstration program, the Ombudsman Program today exists in all states, the District of Columbia, Puerto Rico and Guam, under the authorization of the Older Americans Act. Each state has an Office of the State Long-Term Care Ombudsman, headed by a full-time state ombudsman.

Thousands of local ombudsman staff and volunteers work in hundreds of communities throughout the country as part of the statewide ombudsman programs, assisting residents and their families and providing a voice for

those unable to speak for themselves. The statewide programs are federally funded under Titles III and VII of the Act and other federal, state and local sources.

4. The duty of the Iowa Long Term Care Ombudsman is to accept, investigate, and work to resolve complaints relating to any action or inaction that may adversely affect the health, safety, welfare, or rights of residents of long term care facilities. Iowa Code § 231.42(3)(a). In addition, the Ombudsman must monitor the development of elder law, annually report to the governor on the activities of the office and make recommendations for improving the health, safety, welfare, and rights of residents and tenants of long term care facilities. Iowa Code § 231.42(2). If the Long Term Care Ombudsman suspects abuse or exploitation of a resident, she shall make an immediate referral to the department of inspections and appeals, the department of human services, the department of aging, or local law enforcement. Iowa Code § 231.42(4).

5. LLTCO received complaints about _____. He/She investigated these complaints.

6. LLTCO's attorney, Chantelle Smith, has informed _____ attorney, NAME OF ATTORNEY, that any information gathered in the course of an investigation of suspected abuse is confidential under both state and federal law. Iowa Code § 231.42(12)(a); 42 U.S.C. § 3058g(d)(2)(A). Because the parties could not resolve the issue, the Ombudsman requests an order quashing the subpoena.

7. The Long Term Care Ombudsman has a responsibility under federal law to keep confidential information gathered in the course of an investigation into elder abuse. 42 U.S.C. § 3058g(d)(2); Ombudsman Servs. Of Northern Calif. v. Superior Court, 154 Cal. App. 4th 1233 (Ct. App. Cal. Sept. 5, 1997)(long term care ombudsman's records were privileged). 42 USC 3058g(d) requires that the state ombudsman investigations may only be disclosed at the discretion of the ombudsman and further prohibits the disclosure of the identity of any complainant or resident without his or her consent.

8. State law also protects the confidentiality of Long Term Care Ombudsman investigations, providing that information that discloses the identity of any complainants or information related to any residents' records shall remain confidential. Iowa Code § 231.42(12)(a).

9. The purpose of both the federal and state confidentiality provisions covering the Ombudsman's investigative files is to protect the complainants and residents, to allow the complainant, residents, and any other person to speak freely with the ombudsman without fear of retaliation. If a subpoena could abridge the confidentiality set forth in both federal and state law, then the ombudsman's ability to investigate and promise confidentiality would be hindered. The California court recognized this fact in Ombudsman Servs., stating that "The ombudsman is likely to get the full cooperation of such patients, residents, employees, or administrators... only if such people are assured their statements and information will not come back to haunt them." 154 Cal. App. 4th at 1245. Without the shield of confidentiality, the Long Term Care Ombudsman cannot investigate cases as required by federal and state regulations.

10. Federal law allows the Long Term Care Ombudsman to disclose the identity of a complainant or reporter with his or her consent. 42 U.S.C. § 3058g(d)(2)(B). This exception does not allow testimony about the Ombudsman's investigative files, including notes, photographs, investigative materials, and records. See 42 USC 3508g(d)(2)(B). That testimony would have to disclose other complainants' or residents' protected information. Further, it would undermine the policy of confidentiality that enables the Ombudsman to do her work. One individual person does not have the ability to authorize the release of investigative file.

11. The purpose of the State Ombudsman program is to investigate complaints in long-term care facilities, not to become witnesses in civil actions and to be placed in the middle of an employment dispute. The public's benefit and interest in having the State Ombudsman's investigative files remain confidential is not outweighed by a civil action against a nursing home from a former employee.

12. The subpoena issued to LLTCO should be quashed because it requires testimony about the confidential investigation of the Long Term Care Ombudsman. Iowa R. Civ. P. 1.701(4)(d)(1)(3).

WHEREFORE, Iowa State Long-Term Care Ombudsman, on behalf of NAME, Local Long Term Care Ombudsman, requests that this body quash the subpoena issued to LLTCO.

Attachment K: Office of the State Long-Term Care Ombudsman Intake Form
(Go back to policy [Omb-1](#) or see next page for usable form)



Office of the State Long-Term Care
OMBUDSMAN
Established within the Iowa Department on Aging

Jessie Parker Building
510 E 12th Street, Ste. 2
Des Moines, IA 50319
P: 515.725.3333 | F: 515.725.3313 | 866.236.1430
www.iowaaging.gov

Office of the State Long-Term Care Ombudsman Intake Form

Date: _____

Intake done by: _____

Complainant and contact information:

Resident and contact information *(if different from complainant information):*

Facility:

Permission to provide information to Office of the State Long-Term Care Ombudsman? ☐ Yes ☐ No

Resident's concerns:

Pick one of the following issue classifications:

Priority 1 ☐

Priority 2 ☐

Priority 3 ☐

Attachment L: Request for Child and Dependent Adult Abuse Information

(Go back to policy [Omb-16](#) or see next page for usable form)

**Request for Child and Dependent Adult Abuse Information**

Persons or agencies with authorized access to child or dependent adult abuse information must use this form to request information about a child or dependent adult abuse report. **Complete a separate form for each family or individual** and email to dhsabuseregistry@dhs.state.ia.us, or fax to (515) 564-4112, or mail to the Iowa Department of Human Services, Central Abuse Registry, P.O. Box 4826, Des Moines, IA 50305.

Please specify your type of request by checking the appropriate box below:

☐ Child abuse request ☐ Dependent adult abuse request ☐ Both

Please specify your preferred **method of response** by checking a box and completing the information in Section 1.

☐ Address ☐ Fax ☐ Email

Section 1: To be completed by the person or agency requesting the information.

Requester: Last		First	Agency Name		Telephone Number ()
Address					Fax Number ()
City		State	Zip Code		Email
Relationship to the persons listed in Section 2 or 3:					
Purpose for request:					
State the Iowa Code section that allows access to the child or dependent adult abuse information requested:					
I have read and understand the legal provisions for handling child or dependent adult abuse information which is printed on the second page of this form. I understand that this request will not be approved unless I have authorized access.					
Signature of Requester				Date	

Complete Section 2 if the purpose of this record check is employment, licensing or registration, or payment approval.

Section 2: List the name and address of the person whose record is being checked.

Last		First	Middle	Birth Date	Social Security Number	
Address		City		County	State	Zip Code
List maiden name, any previous married names, and any alias:						

Complete Section 3 if the request is for a copy of the written summary of the abuse investigation or assessment.

Section 3: List the name of the persons for whom you are requesting information. Attach pages for additional family members.

Last		First	Middle	County	Birth Date	Social Security #
Address		City		State	Zip Code	
List maiden name, any previous married names, and any alias:						

Section 4: Registry or designee decision.

- ☐ This request for information is approved.
☐ This request for information is denied because:

Signature of Registry or Designee	Date
-----------------------------------	------

LEGAL PROVISIONS FOR HANDLING CHILD AND DEPENDENT ADULT ABUSE INFORMATION

Redissemination of Child and Dependent Adult Abuse Information (Iowa Code sections 235A.17 and 235B.8)

A person, agency, or other recipient of child or dependent adult abuse information shall not re-disseminate (release) this information, except that re-dissemination is permitted when **ALL** of the following conditions apply:

- ◆ The re-dissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.
- ◆ The person to whom such information would be re-disseminated would have independent access to the same information under Iowa Code sections 235A.15 or 235B.6.
- ◆ A written record is made of the re-dissemination, including the name of the recipient and the date and purpose of the re-dissemination.
- ◆ The written record is forwarded to the Central Abuse Registry within 30 days of the re-dissemination.

Criminal Penalties (Iowa Code sections 235A.21 and 235B.12)

A person is guilty of a criminal offense when the person:

- ◆ Willfully requests, obtains, or seeks to obtain child or dependent adult abuse information under false pretenses, or
- ◆ Willfully communicates or seeks to communicate child or dependent adult abuse information to any agency or person except in accordance with Iowa Code sections 235A.15, 235A.17, 235B.6, and 235B.8, or
- ◆ Is connected with any research authorized pursuant to Iowa Code sections 235A.15 and 235B.6 and willfully falsifies child or dependent adult abuse information or any records relating to child or dependent adult abuse.

Upon conviction for each offense, the person is guilty of a serious misdemeanor punishable by a fine or imprisonment.

Any person who knowingly, but without criminal purposes, communicates or seeks to communicate child or dependent adult abuse information except in accordance with Iowa Code sections 235A.15, 235A.17, 235B.6, and 235B.8 is guilty of a simple misdemeanor punishable, upon conviction for each offense, by a fine or imprisonment.

Any reasonable grounds for belief that a person has violated any provision of Iowa Code Chapters 235A or 235B shall be grounds for the immediate withdrawal of any authorized access that person might otherwise have to child or dependent adult abuse information.

REQUESTS FOR CORRECTION OR EXPUNGEMENT OF A CHILD OR DEPENDENT ADULT ABUSE REPORT

To request an administrative appeal hearing of a child or dependent adult abuse report, please submit a request in writing to: Department of Human Services, Appeals Section, 5th Fl, 1305 E Walnut St, Des Moines, Iowa 50319-0114. You will be notified in writing acknowledging receipt of your request; time, date, and place of your hearing; and any decisions regarding your request. If you disagree with this decision, the written notice will explain how you may request an administrative hearing about the report and its conclusions per Iowa Code sections 235A.19 or 235B.10.

Attachment M: Confidentiality Agreement Form

(Go back to policy [Omb-7.1](#) or see next page for usable form)

Iowa Department on Aging

Office of the State Long-Term Care Ombudsman

Employee, Student, VISTA, and Volunteer Confidentiality Agreement

I will treat all internal office communications as well as information and records that disclose the identity of a complainant, resident, tenant, or individual who is receiving or has received services or assistance provided by the Department on Aging and the Office of the State Long-Term Care Ombudsman as strictly confidential pursuant to the laws of the State of Iowa.

I agree to use all confidential information only as permitted by Department on Aging policies and procedures. I will not misuse or attempt to alter confidential information in any way.

I understand that failure to follow department policies related to confidential information may result in termination of my relationship with the Iowa Department on Aging.

My signature below acknowledges that I have read and understand this agreement.

Print Name: _____

Signature: _____

Date: _____

Attachment N: Code of Ethics for Long-Term Care Ombudsmen

(Go back to policy [Omb-17](#))

Code of Ethics for Long Term Care Ombudsmen

The National Association of State Long Term Care Ombudsman Programs

1. The ombudsman provides services with respect for human dignity and the individuality of the client, unrestricted by considerations of age, social or economic status, personal characteristics, or lifestyle choices.
2. The ombudsman respects and promotes the client's right to self-determination.
3. The ombudsman makes every reasonable effort to ascertain and act in accordance with the client's wishes.
4. The ombudsman acts to protect vulnerable individuals from abuse and neglect.
5. The ombudsman safeguards the client's right to privacy by protecting confidential information.
6. The ombudsman remains knowledgeable in areas relevant to the long term care system, especially regulatory and legislative information, and long term care service options.
7. The ombudsman acts in accordance with the standards and practices of the Long Term Care Ombudsman Program, and with respect for the policies of the sponsoring organization.
8. The ombudsman will provide professional advocacy services unrestricted by his/her personal belief or opinion.
9. The ombudsman participates in efforts to promote a quality, long term care system.
10. The ombudsman participates in efforts to maintain and promote the integrity of the Long Term Care Ombudsman Program.
11. The ombudsman supports a strict conflict of interest standard that prohibits any financial interest in the delivery or provision of nursing home, board, and care services, or other long term care services that are within their scope of involvement.
12. The ombudsman shall conduct himself/herself in a manner that will strengthen the statewide and national ombudsman network.

I have received and agree to abide by this code of ethics.

Signature of Representative

Date

State Long-Term Care Ombudsman

Date

Attachment O: Assisted Living Program Eviction Information

(Go back to policy [Omb-23.2](#))

Assisted Living Program Eviction Information

Statute References: Iowa Code Chapter 648.3(2)
648.5(1) & (2) a&b
648.22
648.5(2)c

Eviction Actions are governed by Iowa Code Chapter 648 Forcible Entry And Detainer

In the event that a tenant has not vacated the Assisted Living Program (ALP) within the 30 days spelled out in the involuntary transfer notice, the tenant becomes a hold over tenant.

The 3 Day Notice To Quit may be served by the ALP in person, by posting at the entrance door of the tenant's unit, or by mail.

The 3 Day Notice To Quit does not have to be provided to the Office of the State Long-Term Care (Office) Ombudsman by the Assisted Living Program (ALP).

If the tenant remains in the ALP unit past the date in the 3 Day Notice To Quit, the ALP must begin a forcible entry and detainer action to reclaim the unit from the tenant. This process begins with the ALP filing a petition for forcible entry and detainer with the court in the county in which the ALP is located. The court will set a date, time and place for the hearing, and then the petition for the forcible entry and detainer with the date, time and place for the hearing must be served on the tenant, in person, no later than 3 days prior to the hearing date.

If the petition cannot be served on the tenant in person after two attempts, the petition can be posted on the entrance door of the unit, and by mailing both regular and certified mail.

This petition for forcible entry and detainer does not have to be provided to the Office by the ALP.

A hearing shall be held for the court to determine if the tenant must vacate the ALP. Regarding the Discharge Specialist's involvement, refer to [Policy 11](#) : Participation in Administrative Proceedings and Internal Appeals Process.

In the event that the ALP is successful at the hearing, the ALP will be entitled to possession of tenant's unit, and within 3 days a writ will be issued for the ALP to enter the unit and remove the tenant.

Attachment P: Educational Opportunities
(Go back to policy [Omb-17](#))

Educational Opportunities

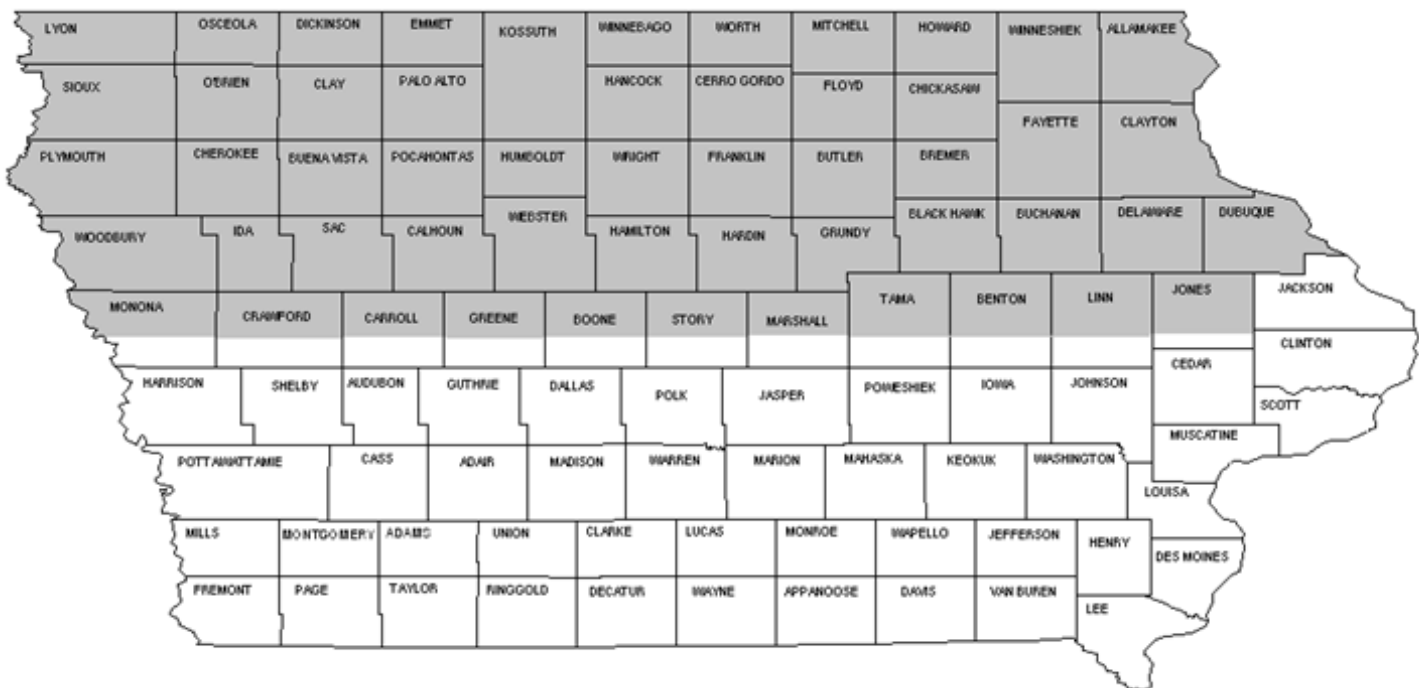
Representatives of the Office (Representatives) shall be required to complete at least 16 hours of continuing education per federal fiscal year as approved by the Ombudsman. See Policy [OMB-17](#): Certification, Designation and Withdrawal of Designation of any Employee Representative. The decision will be made based on a case by case basis and will be determined by:

- The cost of the training.
- How the training relates to Representative work.
- If the education can be presented to other Representative during a certification call.
- The location of the training and how much travel time will be needed.
- The potential impact on the Representative to complete his/her regular assigned duties.

If a Representative requests to attend an educational opportunity during regular work hours and it is located off site, the Ombudsman will review to determine whether the Representative may attend during work time or if paid or unpaid leave will need to be used.

Attachment Q: LLTCO District Map

(Go back to policy [Omb-1.1](#))



Attachment R: State of Iowa Employee Handbook

(Go back to policy [Omb-26](#))

State of Iowa Employee Handbook



October 2018

Issued by:

Iowa Department of Administrative Services – Human Resources Enterprise

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Welcome to Iowa State Government

Whether you are just starting or have been working here for some time, you are an important part of accomplishing the goals of your agency and of state government. Work in state government can be challenging as well as personally satisfying.

As a state employee, it is important you present the best possible image to the public. Remember to act promptly, be courteous, and treat everyone respectfully. How you act as a representative of the State will make a lasting impression.

Again, welcome to the State's workforce!

The Iowa Department of Administrative Services

Introduction

This is your employee handbook. This information is based upon Iowa Department of Administrative Services (DAS) rules and policies. It explains the regulations and policies that govern your employment as well as the benefits and services to which you are entitled as a state employee. This handbook does not supersede the provisions of a state-negotiated collective bargaining agreement or DAS administrative rules, should there be conflicting provisions. Also, individual state agencies may have more specific policies in place, which augment those contained in this handbook. You should familiarize yourself with those as well.

If you have any questions, contact your supervisor, your agency's human resources associate, or the DAS Employee Relations Coordinator.

The State of Iowa reserves the right to amend the contents of this handbook at any time without prior notice. The provisions of this handbook and other policies do not establish contractual rights or conditions of employment between the State and its employees. Nothing in this handbook constitutes a waiver of the State's sovereign immunity.

General Employment Information

Probationary Period

If you are employed in a permanent, merit-covered position, you will serve a six-month probationary period. If you are a Peace Officer employed by the Iowa Department of Public Safety, you are subject to a 12-month probationary period.

Before your probationary period is completed, your supervisor will evaluate your work performance. At such time, you may be granted permanent status or you may be terminated. There is no right of appeal if you are terminated during your probationary period. Ask your supervisor or your agency's human resources associate if you have any questions regarding your employment status.

Permanent Status

If you successfully complete your probationary period, you obtain permanent status. Permanent status does not mean you cannot be disciplined or discharged for misconduct, poor job performance, or any other just cause. Further, permanent status does not guarantee you will not be subject to layoff. (Note: If you are employed in a permanent position that is exempt from the provisions of the State's merit system and any applicable collective bargaining agreements containing just cause discipline and discharge provisions, you may not be subject to a just-cause standard for discipline or discharge.)

Merit System Coverage

Your position is covered by the State of Iowa's merit system unless exempted by statute. The merit system is a system of human resource administration based upon merit principles to govern the appointment, compensation, promotion, welfare, development, transfer, layoff, removal, and discipline of its civil employees, and other incidents of state employment. If your position is covered by the merit system, you may be disciplined or discharged for just cause.

If your position is non-merit (i.e., exempt from the merit system) and your position is not otherwise covered by collective bargaining agreement or Iowa Code provisions relating to cause or just cause discipline and discharge, your position is considered at-will and you serve at the pleasure of your Appointing Authority. This means you may be disciplined or discharged for any lawful reason at any time without regard to cause or just cause.

Ask your supervisor or your agency's human resources associate if you have questions about your employment status.

Armed Services Veterans Employees

After serving a probationary period and if you qualify for veterans preference, you may not be removed from your position or employment except for incompetency or misconduct. You must be given notice of the allegations and will be given a hearing. Additionally, there are certain other rights found in Iowa code Section 35C.

Veterans preference does not apply to situations in which a position is eliminated due to a reduction in force. Additionally, veterans preference does not apply to certain positions. Ask your supervisor or your agency's human resources associate if you have questions regarding your position.

Work Hours

The standard work schedule for most employees is 40 hours per workweek. In locations with around-the-clock operations, schedule and days off will vary. In some agencies, employees may be permitted to use various options, which provide flexibility in scheduling work hours. Your supervisor will explain any options available to you. Typically, two 15-minute paid rest periods are provided. The first rest period is generally scheduled during the first half of your workday, and the second rest period in the second half of your workday. A 30-minute unpaid lunch period will also be arranged by your supervisor.

Overtime

During emergencies or periods requiring extra work, your workweek may be adjusted by your supervisor. Overtime compensation is paid in accordance with the federal Fair Labor Standards Act, DAS-HRE rules, and any applicable provisions of a collective bargaining agreement. If you are eligible for overtime pay, you must have prior approval from your supervisor to work overtime. For specific information, refer to DAS-HRE rules, an applicable collective bargaining agreement or consult with your supervisor.

Additionally, if you are an overtime-eligible employee, you may request to accrue compensatory time in lieu of payment for overtime hours. You may accrue compensatory time up to 80 hours, after which the time will be paid out to you. For further information regarding compensatory time, please consult DAS-HRE rules, an applicable collective bargaining agreement or your supervisor for any specific agency policies.

Promotion

To be considered for promotional opportunities in positions covered by the merit system, you must apply for the appropriate job class and be included on the DAS-HRE list of eligibles for the class.

DAS-HRE accepts applications for promotion from permanent employees. You may apply online at <https://das.iowa.gov/human-resources/state-employment> or obtain a paper copy of a DAS-HRE Employment Application from your agency's human resources associate. Completed applications are to be submitted to DAS-HRE in Des Moines.

Minimum qualifications for each job classification are listed in the DAS-HRE job class descriptions, which are available at your local Iowa Workforce Center, at DAS-HRE, or online at <https://das.iowa.gov/human-resources>.

If you are promoted within your employing agency, you may be required to serve a probationary period in your new position. This requirement does not affect your permanent status. If you do not perform satisfactorily in the new position, you may be returned to a position in your former job class. Refer to the DAS-HRE rules for further information.

Dual Executive Branch Compensation

Pursuant to Iowa Code section 68B.2B, if you accept simultaneous employment with another executive branch agency, you must file notice of the dual employment with the Iowa Ethics and Campaign Disclosure Board within 20 business days of accepting the second employment. (This does not apply to service in the

Iowa National Guard or General Assembly.) The form can be found on the Iowa Ethics and Campaign Disclosure Board website.

In addition, you may not perform work for another state agency which is the same or substantially similar to the work performed as part of your regular employment duties.

Job Reclassification

Management may change the duties and responsibilities of your position. If the changes are significant and assigned permanently, the position may be considered for reclassification to a job class which more accurately reflects the new duties, if necessary. If a different job class is necessary, it may be to a higher or lower pay grade, or to a different class in the same pay grade. If your position's classification is reviewed, you and your supervisor will be asked to complete the appropriate forms, which will include a description of your duties.

You or your agency may request a classification review of your position. DAS-HRE may also review your position's classification without a formal request from you or your agency. Approval must be obtained from DAS-HRE (and the Department of Management, if there are budget implications) before a reclassification can be effective. If you are affected by a reclassification decision and you do not agree with the decision, you may have the right to file an appeal with the Classification Appeal Committee in accordance with DAS-HRE rules.

Performance Reviews

If you are a probationary employee, you may receive one or more performance reviews prior to the end of your first six months of employment. If you are a permanent employee, you will receive job performance reviews at least once every twelve months. If you do not receive a timely job performance review, you should request your supervisor complete one with you.

Safety

The State promotes a safe work environment for its employees. It is your duty to work safely.

If you drive or ride in a state vehicle for any reason, you are required to comply with DAS rules and policies and any applicable traffic laws. For more information, please refer to the Fleet Services Policies and Procedures Manual at <https://das.iowa.gov/sites/default/files/fleet/pdf/DASFleetPNPmanual.pdf> as well as your agency's policies and procedures.

You are expected to cooperate in every respect with the State's safety program, and your agency's safety program, to ensure your own safety and the safety of your coworkers, clients, residents, inmates, and the public. Be sure to familiarize yourself with the emergency procedures for your agency and work location. You are expected to follow these procedures. Always check with your supervisor if you are in doubt about any safety factors when performing your assigned duties.

Where required, your agency will provide you with appropriate safety equipment including, but not necessarily limited to, safety glasses/goggles and footwear. Your agency may, at its discretion, allow you to be reimbursed for the purchase of certain safety equipment in accordance with State Accounting Enterprise and agency-specific policies. Consult your supervisor if you have questions regarding safety equipment.

Employee Personnel Records

Your agency or the Department of Administrative Services is responsible for maintaining your personnel records in accordance with DAS-HRE rules and policies. Your personnel file includes payroll documents, insurance applications, beneficiary designations, performance plans and evaluations, and other documents pertinent to employment.

You have the right to access the information in your own personnel file during business hours. If you wish to review your personnel file, you must arrange a time which is convenient to your agency. You may be charged the actual cost of copying your records, but not more than \$5.00.

Management Access to Work Areas

You will be provided a suitable work area and certain materials, equipment, and tools to facilitate the performance of your job. Such materials, equipment, and tools are to be used for business or work-related purposes only. Management has the right of access to all work areas at any time. This includes, but is not limited to, your work area, state vehicles, desk drawers, file cabinets, storage areas, passwords, mail, e-mail, keys, lockers, state-issued phones, and computer data and information. As such, you have no right to expect privacy in your work area. Your purses or briefcases are not, under normal circumstances, considered work-related areas.

If you are given keys to locked work areas or passwords to computer data or information, you are hereby given notice this action does not create an expectation of privacy.

You may be provided keys, access badges, or passwords at the discretion of management to preserve confidentiality or to protect state property from unauthorized access. You may not install or change locks or combinations installed on equipment provided by the State without prior written supervisory approval. Failure to exercise due care and diligence in the use and protection of state-issued equipment, including keys, access badges, or passwords, can be grounds for disciplinary action up to and including discharge.

Uniforms and Other Clothing

Your agency will provide you with a uniform if it requires you to wear one. Unless your agency maintains a policy regarding uniform laundering, employees will launder their own garments without compensation from your agency. Your agency will determine the number of uniforms or uniform items you are provided, as well as the frequency with which they are replaced.

Your agency will also provide you with cold weather clothing if your job regularly requires outdoor work during cold winter months. Your agency may, at its discretion, allow you to be reimbursed for the purchase of certain cold weather clothing in accordance with State Accounting Enterprise and agency-specific policies. Consult your supervisor if you have questions regarding uniforms and cold weather clothing.

Resignation

In order to resign or retire in good standing, you must give at least a 14-calendar-day written notice to your supervisor prior to your departure. In accordance with DAS-HRE rules, if you fail to give this prior written notice, you may be barred from certification or appointment for a period of up to two years.

Payday and Paychecks

Paychecks

Your paycheck (warrant) is distributed every other Friday, unless the payday falls upon a state holiday. Federal and state income taxes, Social Security (FICA), mandatory wage withholding, and retirement system contributions will be deducted from your check as required by law. Other voluntary deductions will be made only at your request. These could include: health, dental, and supplemental life insurance premiums; credit union deductions; deferred compensation deductions; voluntary insurance deductions; and flexible spending deductions.

Your paycheck stub will show the deductions taken from your salary, your available vacation and sick leave balances, the maximum number of vacation hours you may accrue and, if applicable, compensatory leave and holiday compensatory leave balances.

You can also view your payroll warrant information online if your agency has opted to participate. The Online Payroll Warrant Report contains information concerning an employee's wage payments, deductions, and state-share amounts paid on behalf of the employee. It also contains leave accruals, usages, balances, and tax status information. This electronic document replaces the paper "pay stub." You can access the Online Payroll Warrant Report through a secure website, accessible only by you, and which requires entering your user ID and password to review the report.

Direct Deposit

Direct deposit is a safe and efficient way of handling your paycheck. You are encouraged to have your net pay deposited directly to an account at the participating financial institution of your choice. Your agency's human resources associate has the forms you will need to enroll in this program. If you were employed after July 1, 2009, you may be required to directly deposit your paycheck.

Travel Expenses

If you are required to travel on state business, please refer to State Accounting Enterprise policies and guidelines located at <https://das.iowa.gov/state-accounting> – as well as your agency's policies and procedures – for information regarding travel reimbursement rates and use of state vehicles. Reimbursement for travel expenses is processed through the State's accounting system and paid on a State of Iowa warrant, which is separate from the payroll warrant.

Charitable Contributions

You may voluntarily participate in the annual One Gift Campaign. Through payroll deductions, you may designate contributions to the charities of your choice from the list of participating charities. Your agency's human resources associate can provide you with further details.

Group Benefit Programs

Health Insurance

If you work at least 20 hours per week, you may participate in the State's group health plans. If both you and your spouse are employed by the State, you and your spouse can enroll under the same family coverage. You cannot be covered as both an employee and a dependent under the State's health benefit plans. The portion of the premium paid by the State and the portion paid by you depend upon the number of hours you work and the health plan selected. If you are covered by the State Police Officers Council (SPOC) collective bargaining agreement, you have a separate group health plan.

Your coverage will become effective the first day of the calendar month following the day you complete one month of continuous employment. If the first day of employment is the first working day of the month, your coverage will be effective the first day of the next month. Contact your agency's human resources associate to determine your eligibility and to determine the State's premium contribution in your particular situation.

If you do not enroll when you are first eligible for health benefits, you may enroll during an annual enrollment and change period or 30 days following a qualified life event (60 days in the case of birth or adoption). Your benefit elections remain in effect through the end of the calendar year. More information is included in the Qualified Life Events section of this handbook.

Dental Insurance

If you work at least 20 hours per week, you are eligible to enroll in the State of Iowa's dental insurance program. The State pays all or part of a single policy monthly premium, depending upon the number of hours the employee works. If both you and your spouse are employed by the State, you and your spouse may enroll under the same family coverage. You cannot be covered as both an employee and a dependent under the State's dental benefit plans. The portion of the family premium paid by the State and the portion paid by you depends upon the number of hours you work. If you are covered by the State Police Officers Council (SPOC) collective bargaining agreement, you have a separate group dental plan.

You must enroll within 30 days after your date of employment. (Note: This is the only time you may enroll unless an applicable collective bargaining agreement provides otherwise, or you experience a qualified life event.) Your coverage will become effective the first day of the calendar month following the day you complete one month of continuous employment. If the first day of your employment is the first working day of the month, your coverage will be effective the first day of the next month.

You must make any qualified life event changes within 30 days of the event (60 days in the case of birth or adoption); see the Qualified Life Event section of this handbook for more details.

Dependent Verification

DAS-HRE maintains and verifies the eligibility status of you and your family members for purposes of insurance coverage. You may be asked to provide certain documentation to verify dependent eligibility. In the event this information is requested by DAS-HRE and all necessary form(s) are not completed and returned within the required timeframes, your dependent(s) may be terminated from the State's plan.

COBRA

If you leave state employment or have certain “qualified events,” the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) provides for continuation of health and dental benefits coverage to you and/or your eligible family members at the group premium rate after coverage with the State ends.

The State’s share of the premium payment for your health and dental benefits will cease at the end of the month in which the qualifying event occurs and you will be responsible for full payment of the premium. COBRA coverage begins the first of the month following the qualifying event. The COBRA election period ends 60 days from the later of:

- The date coverage would otherwise end; or
- The date of the “COBRA Notification/Election Form.”

If you divorce, reduce hours, or have a dependent who is no longer eligible for coverage, you must notify your agency’s human resource associate within 60 days following the event so the COBRA information can be sent to you. COBRA rights will not be extended to a domestic partner or his/her children.

Please visit <https://das.iowa.gov/sites/default/files/hr/benefits/documents/COBRA.Continuation.Rights.Ltr.pdf> to view the General Notice of COBRA Continuation Coverage Rights or request a printed copy from your agency’s human resources associate.

Sick Leave Insurance Program (SLIP)

The Sick Leave Insurance Program (SLIP) offers retirement-eligible employees an option for using all or part of their unused sick leave balance to pay the state share of their group health insurance premiums after they retire. Pursuant to Iowa Code section 70A.23(3)c, payment of health insurance premiums will continue until:

- The available value of sick leave is exhausted, or
- The retiree becomes eligible for Medicare (age 65, or earlier, if approved for Social Security Disability), or
- The retiree dies, or
- The retiree returns to state government in a permanent full- or part-time position. (In this case, the returning retiree forfeits any remaining benefits.)

Executive branch state employees are eligible for the SLIP program, except elected officials, Board of Regents employees, and employees represented by the SPOC union. A similar program is offered to employees represented by the SPOC union.

For program information, visit the SLIP website at <https://das.iowa.gov/human-resources/employee-and-retiree-benefits/retirees/sick-leave-insurance-program-slip>, or consult the DAS-HRE rules and any applicable collective bargaining agreement.

Life Insurance

The State provides basic group term life insurance to you if you are regularly scheduled to work at least 30 hours per week. Additional supplemental life insurance is available at your expense. Supplemental life insurance premiums are paid through payroll deduction. You may enroll for the guaranteed issue coverage available to you without evidence of insurability if you enroll within 30 days after your employment date.

You cannot make changes to your supplemental life insurance until the annual enrollment and change period, unless you have a qualified life event. You must provide evidence of insurability and be approved for coverage by the life insurance carrier before any increase becomes effective. Visit <https://das.iowa.gov/human-resources/employee-and-retiree-benefits/employees/group-insurance/life-insurance> for more information.

Long-Term Disability Insurance (LTD)

Long-term disability insurance is provided if you are regularly scheduled to work at least 30 hours per week. A monthly benefit is paid for approved claims starting 90 workdays following your date of disability or after you have exhausted all of your unused sick leave, whichever is later. You are eligible for benefits when you are disabled due to injury either on or off the job or due to a serious illness. Visit <https://das.iowa.gov/human-resources/employee-and-retiree-benefits/employees/group-insurance/long-term-disability-ltd> for more information.

Qualified Life Events

When you enroll in benefits, your benefit election remains in effect through the end of the calendar year. You cannot change your benefit elections outside the annual enrollment and change period, unless you experience a qualified life event which is consistent with the type of change you wish to make to your benefits.

Qualified events are defined by Internal Revenue Code section 125, based upon individual circumstances and plan eligibility. The list may not apply to every benefit plan. Please see the life event matrix on the State of Iowa benefits website at <https://das.iowa.gov/human-resources/employee-and-retiree-benefits/employees/group-insurance/health-dental-insurance-1>, or ask your agency's human resources associate for more details.

Supplemental Retirement Savings Program

The State's supplemental retirement program is called the Retirement Investors' Club (RIC). RIC contains three plans: 457, 401a, and 403b (Department of Education employees only). The program is voluntary and is designed to supplement IPERS and Social Security benefits at retirement. To be eligible for the 457/401a plans, you must be a permanent or probationary employee normally scheduled to work at least 20 hours per week or have a fixed annual salary. There are no eligibility requirements for the 403b plan.

While you are participating in RIC, payroll deductions in the amount you choose (up to the federal maximums) are taken from your check and deposited into an account in your name. You may make contributions on a pre-tax or post-tax (Roth) basis. The State will match contributions to your 457 plan up to a maximum amount each month and place the funds in a 401a account in your name for your exclusive benefit. There is no match for your 403b plan.

Enrollment is always open and you may change your contribution amount and investment selection at any time. You may direct your contributions to a number of competitive investments, including mutual funds, variable annuities, and fixed rate accounts. For more information, visit RIC's website at <https://das.iowa.gov/RIC> or call 1-866-460-4692.

Flexible Spending Accounts

Flexible Spending Accounts (FSAs) let you pay for certain health (Health FSA) and dependent care expenses (Dependent Care FSA) with tax-free dollars.

To be eligible, you must be a non-temporary employee who works at least 1,040 hours per calendar year.

This benefit saves you money by reducing your taxable income and increasing your spendable income. You may contribute to one or both of the State's FSA accounts with pretax dollars and then you are reimbursed for qualifying expenses for you and your family. Pretax dollars are not subject to state, federal, or FICA taxes.

You may enroll within 30 days of your employment with the State or during the annual enrollment and change period. You must re-enroll every year in health and/or dependent care flexible spending. Changes can only be made during the enrollment and change period or at the time of a qualified life event. Contact your agency's human resources associate for more information, or visit the FSA website at <https://das.iowa.gov/human-resources/employee-and-retiree-benefits/employees/additional-benefits/flexible-spending>.

Premium Conversion Plan (Pretax)

You are eligible to participate in the Premium Conversion Plan (Pretax) if you work at least 20 hours per week (1,040 hours per calendar year). Pretax dollars may be used to pay for your share of health, dental, and supplemental life insurance while saving money on income and FICA taxes. This means insurance premiums are deducted from your salary before taxes are calculated. Please note, since you do not pay FICA on your insurance premiums, those amounts are not included in your wages for Social Security calculations.

You are automatically enrolled in Pretax when hired by the State. Changes in participation in Pretax can be made only during the annual enrollment and change period or within 30 days of a qualified life event. If you are a newly hired employee and do not want to participate, you must complete a form within 30 days of your employment date. Contact your agency's human resources associate for more information.

Other Benefits

Workers' Compensation

Workers' compensation benefits are provided to you by law. Under workers' compensation, you may be eligible for wage replacement and medical care. You must immediately report on-the-job injuries to your supervisor. An injury form (First Report of Injury) must be completed. Your agency may have other forms to complete to assist in accident investigation and injury prevention.

Workers' compensation is designed to compensate you for work-related injuries and illnesses only. You should submit reimbursement for personal medical conditions to your group insurance carrier. Keep your supervisor informed of your progress if you are off work. Work with your agency to make arrangements for returning to your job as soon as possible.

Iowa Public Employees' Retirement System (IPERS)

Public employment provides most employees with regular membership coverage under the Iowa Public Employees' Retirement System (IPERS). Your employer is required to deduct a specified amount from your gross pay. Your deduction is contributed on a pretax basis for federal and state income tax purposes. (Pretax contributions lower your taxable income.) In addition, your employer contributes a specified amount to IPERS on your behalf.

Even if you do not retire under IPERS, the contributions you make will always be your money. If you leave public employment before retirement age, you may withdraw your contributions and any accumulated interest, or you may leave them in your account and retire when you reach 55. If you are a vested member who receives refunds, you will also receive a portion of your employer's contributions and accumulated interest. You may put the money into another retirement plan or into your own savings.

For more information, contact IPERS at 515-281-0020 or 1-800-622-3849 (Monday – Friday, 7:30 a.m. – 5:00 p.m.), visit www.ipers.org, or e-mail info@ipers.org.

Peace Officers' Retirement System (PORS)

If you are a peace officer in the Iowa Department of Public Safety, you are provided coverage under the Peace Officers' Retirement System (PORS). Upon retirement, you are eligible for PORS, which has specific provisions regarding your sick leave balance. Contact your agency's human resources associate for more information.

Employee Assistance Program

The Employee Assistance Program (EAP) provides professional consultation and referral services, short-term counseling, and life coaching to assist you with a broad range of personal problems, including substance abuse, family or marital problems, financial concerns, career issues, and emotional problems.

The services provided by the EAP are confidential and offered at no initial cost to you. The EAP is intended to promote a healthy and productive workforce.

A brochure describing EAP services is available from your agency's human resources associate. For more information, please see the following link: <https://das.iowa.gov/human-resources/healthy-opportunities/employee-assistance-program>.

Benefit Education

Benefit education is a service provided to you by DAS benefit staff. The purpose of benefit education is to assist you in making the best use of your benefits. Benefit education is available in a variety of mediums and there is no cost to you to participate in a benefit education presentation. Additional information about benefit education, including a listing and schedule of presentations, is available online at <https://das.iowa.gov/human-resources/employee-and-retiree-benefits/benefit-education>. You may view/attend sessions during work time if scheduling permits and your supervisor approves.

Training and Development

Performance & Development Solutions (PDS), through DAS-HRE, provides training opportunities to help you improve skills, knowledge, and abilities to improve performance and prepare for career advancement. From technical skills, such as computer classes and accounting, to supervision and management, to customer service and communication, PDS offers face-to-face workshops, online training, and special sessions. Course schedules and program descriptions can be accessed online at <https://das.iowa.gov/human-resources/training-and-development>. To register, contact your supervisor or training liaison.

Leaves

Holidays

Holidays are granted to you if you are eligible to accrue vacation and sick leave pursuant to Iowa Code chapter 1C, applicable collective bargaining agreement, and the DAS-HRE rules. The value of the holiday shall be eight hours or the number of hours you are scheduled to work during the holiday, whichever is greater. If you work Monday-Friday, holidays which fall upon a Saturday will be observed the preceding Friday; holidays which fall upon a Sunday will be observed the following Monday.

Vacation

Your vacation accrual rates vary with years of service. If you are a full-time employee, you will accrue vacation in accordance with the following schedule:

1-4 years of service	80 hours (10 days) per year
5-11 years of service	120 hours (15 days) per year
12-19 years of service	160 hours (20 days) per year
20-24 years of service	176 hours (22 days) per year
25+ years of service	200 hours (25 days) per year

Two unscheduled holidays are added to your vacation accrual rates each year. If you are a part-time employee, vacation accrues upon a prorated basis. If you are a temporary employee, you do not accrue vacation.

You can accrue vacation up to twice your annual entitlement plus any unused sick leave conversion. You may not take vacation in excess of the number of hours accrued. Your vacation hours are not available for use until the pay period after it is accrued.

You may utilize unused vacation leave with your supervisor's prior approval. Consult with your supervisor regarding any agency vacation leave policy which may be applicable to you. If you terminate your employment, you will be paid a lump sum for your accrued, unused vacation. Vacation shall not be granted after your last day at work.

Consult the DAS-HRE administrative rules, an applicable collective bargaining agreement, or contact your agency's human resources associate for more information.

Sick Leave

Your sick leave accrual is determined by your sick leave balance as provided for in Iowa Code section 70A.1 or an applicable collective bargaining agreement. If you are a part-time employee, you accrue pro-rated amounts of sick leave based upon the number of hours for which you are paid. Temporary employees do not earn sick leave.

If you are a full-time employee, you will accrue sick leave based upon your accumulated sick leave balance in accordance with the following schedule:

Balance of 0-750 hours	12 hours (1 ½ days) per month
Balance of 750 hours-1,500 hours	8 hours (1 day) per month
Balance of over 1,500 hours	4 hours (1/2 day) per month

* If you are covered by a collective bargaining agreement, you may accrue sick leave at a different rate. See your collective bargaining agreement for accrual rates.

You may use sick leave for personal illness, medical appointments or other reasons as provided for in Iowa Code section 70A.1, DAS-HRE rules or an applicable collective bargaining agreement. You must comply with your agency's requirements for reporting your absence from work and receive appropriate supervisory approval. You may be required to provide a doctor's certificate or other verification. You are expected to use this benefit only for its intended purposes.

If you are a permanent employee who has accumulated a minimum of 30 days (240 hours) of sick leave and you have not used sick leave during the previous calendar month, you may convert sick leave to vacation leave. Consult your agency's human resources associate for more information regarding sick leave conversion.

If you are approved for a monthly benefit under the Iowa Public Employees' Retirement System (IPERS) and retire from employment, your sick leave balance will be converted to a cash equivalent at your current hourly rate and will be paid to you up to a maximum of \$2,000 upon retirement. The remaining converted balance may be used for the Sick Leave Insurance Program. Certain collective bargaining agreements may provide otherwise. Consult the applicable collective bargaining agreement, DAS-HRE rules, or see your agency's human resources associate for more information.

Care and Necessary Attention to Family Members

You may utilize sick leave for the temporary care of or necessary attention to members of your immediate family. Special conditions and time limits apply. For further information, ask your supervisor or your agency's human resources associate.

Death in Immediate Family

When a death occurs in your immediate family, you may be eligible to utilize unused sick leave. Special conditions and time limits may apply in accordance with DAS-HRE rules or an applicable collective bargaining agreement. Consult your supervisor or your agency's human resources associate for further information.

Military Leave

If you are called for military duty as a member of the National Guard, organized reserve, or any component part of the military of the State of Iowa or the United States and are a non-temporary employee, you will be paid your regular salary for time spent on military leave for up to 30 days per calendar year. You must provide proper notice to your supervisor and your agency's human resources associate.

Consult your human resources associate for information regarding your other benefits while on military leave.

Leave without Pay

You may be granted leave without pay for any reason considered acceptable by your agency. You must submit a request for leave without pay in writing and receive prior written approval before going on

leave. Other requirements or stipulations may also apply. Consult your supervisor for further information.

Donated Leave for a Catastrophic Illness

You may be eligible to donate or receive donated leave (vacation) hours for a catastrophic illness. A “catastrophic illness” means a physical or mental illness or injury of the employee or the employee’s immediate family member as certified by a licensed physician which will result in the inability of the employee to report to work for more than 30 workdays based upon a consecutive or intermittent basis. In order to be eligible to receive donated leave, you must have exhausted all other types of paid leave. Contributions shall be designated as “donated leave” and shall be subject to DAS-HRE rules, policies, and procedures.

Jury Duty and Court Leave

If you are called for jury duty or subpoenaed as a witness in a court proceeding, you may be paid for the time you must be in court. This provision does not apply to actions in which you are a party in a court proceeding which is unrelated to your state employment. In order to receive full pay, you must pay to your agency’s accounting office any compensation you receive from the court (except for travel, parking, food, and lodging expense reimbursements). If you elect to use vacation leave, you are entitled to keep any compensation received from the court. If you are directed to appear as a witness by your agency, all time spent shall be considered to be worktime. Consult your supervisor or your agency’s human resources associate for further information.

Bone Marrow and Organ Donation Leave

You may be granted a paid leave of absence for the purpose of bone marrow or organ donation. Such leave is without loss of length of service credit, pay, vacation time, personal days, sick leave, insurance and health coverage benefits or earned overtime accumulation. If you serve as a bone marrow donor, you can be granted up to five workdays of leave. You must provide written verification from a physician or hospital involved with the bone marrow donation that you will serve as a bone marrow donor. If you serve as a vascular organ donor, you can be granted up to 30 workdays of leave. You must provide written verification from a physician or hospital involved with the vascular organ donation that you will serve as a vascular organ donor.

Educational Leave and Assistance Program

Educational opportunities, such as workshops, seminars, or conferences, may be available to you. Attendance-related fees may be paid by your agency, with the approval of the supervisor and in accordance with DAS-HRE rules or applicable collective bargaining agreement. Fees for academic work undertaken by you at an educational institution may be approved for reimbursement by your agency, provided:

- Course work is job related;
- Expenses (tuition and books) are approved by the agency director and DAS-HRE prior to course enrollment;
- Course work is successfully completed (“C-” grade for undergraduate courses and “B-” grade for graduate courses); and
- Funds are available.

Educational leave, with or without pay, may also be granted to you at the discretion of your agency. You may be granted educational leave to develop skills which will improve your ability to perform state job responsibilities or to provide training and developmental opportunities which will enable your agency to better meet staffing needs. Educational leave:

- May be a full or partial absence from the job;
- May include financial assistance; and
- Must be requested in writing on an "Application for Education Leave and/or Education Financial Assistance" form, available online at https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/552-0304_educ_leave_assistance.pdf or from your training liaison.

For more information, contact your supervisor or your agency's human resources associate.

Severe Weather and Emergency Closings

Procedures exist which provide guidance when inclement weather conditions or other emergencies cause an agency (or one of its offices or facilities) to be closed, or when travel is not recommended. The Severe Weather/Emergency Evacuation Policy is available online at https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/severe_weather_policy.pdf.

Unauthorized Leave

If you are absent from duty for three consecutive workdays without proper notification and authorization, you may be considered to have voluntarily terminated your employment. All absences from work must be authorized by your supervisor.

Family and Medical Leave Act (FMLA)

The Family and Medical Leave Act of 1993 (FMLA) requires covered employers to provide unpaid job-protected leave to eligible employees for certain family and medical reasons, and for certain reasons due to the military service of a covered family member. FMLA is not an additional type of leave; it is job protection for you to use paid or unpaid FMLA leave. You may be required to exhaust all paid leave before unpaid leave is granted. For more information on FMLA, visit the DAS website at <https://das.iowa.gov/human-resources/fmla>. (Employee rights and responsibilities under FMLA are listed on the next page.) By providing this information concerning FMLA, in no manner or respect does the State waive its sovereign immunity.

FMLA Absence Reporting

All absences related to an approved FMLA certification for your own medical condition, your family member's medical condition, and/or military duty must be reported to Reed Group, the State of Iowa's third-party FMLA administrator. In addition, you must also report your absences to your agency in accordance with your agency's absence reporting requirements. Reed Group can be notified 24 hours per day, 7 days per week. You can notify Reed Group by calling 844-507-5393 (toll free) or by entering your absence in the self-service portal website at <https://stateofiowa.leavepro.com>.

EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

LEAVE ENTITLEMENTS



Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within 1 year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

ELIGIBILITY REQUIREMENTS

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave;* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

*Special "hours of service" requirements apply to airline flight crew employees.

REQUESTING LEAVE

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

EMPLOYER RESPONSIBILITIES

Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

ENFORCEMENT

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.



For additional information or to file a complaint:

1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627

www.dol.gov/whd

U.S. Department of Labor | Wage and Hour Division



WH1420 REV 04/16

Standards of Conduct

Political Activities

You have the right to express your individual opinions on political issues and candidates. You may not express political opinions when expression may be in violation of the law or when the expression would substantially or materially interfere with the performance of your duties. Additionally, you are prohibited from engaging in political activity during scheduled work hours or when using state equipment. These activities include, but are not limited to, soliciting or receiving political contributions, promising or using influence to secure public employment as a reward for political activity, or discriminating based upon political activity. Political buttons or other insignia may be worn if you have minimal contact with the public and the buttons do not constitute a safety risk. In certain situations, agencies may have additional work rules regarding the wearing of political buttons or other insignia.

If you are working in connection with a program financed in whole or in part by federal funds, you may be covered by the provisions of the federal Hatch Act. If you are covered by the Hatch Act, you shall not be a candidate for public office in a partisan election, may not use official authority for the purpose of interfering with or affecting the results of an election or a nomination for office, and shall not directly or indirectly solicit or coerce contributions from subordinates in support of a political party or candidate. If you have questions concerning your status under the Hatch Act, you may request an advisory opinion by writing to:

US Merit Systems Protection Board
Central Regional Office
230 South Dearborn Street, 31st Floor
Chicago, IL 60604
1-312-353-2923

Outside Employment/Selling Goods or Services

If you are considering outside employment, you should refer to your agency's policies and procedures and Iowa Code section 68B.2A. Your outside employment must not conflict with the interests of your agency or interfere with the performance of your job duties with the State. Your outside work may not involve the dissemination of official information not generally available to the public or to other employees.

If you are employed by a state regulatory agency, you may not sell any goods or services to individuals, associations, or corporations which are regulated by your agency without the prior approval of your agency director.

Additionally, you are prohibited from engaging in any outside employment or activity that requires you to file a registration statement under the federal Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611, et. seq.

Gifts and Gratuities

You shall not solicit or knowingly accept anything (including money, items of monetary value, any other benefit, or any promise of the previously mentioned items) given with an understanding or arrangement it will influence the public service rendered by you or a decision by you or by your agency. As a general rule, you and your immediate family members may not receive gifts (including food or beverages) which

are valued at more than \$3.00 from any person, lobbyist, or entity doing business with or lobbying your employing agency. You are prohibited from accepting honoraria or loans from lobbyists. If anyone attempts to influence you through a gift or gratuity, you must report it to your supervisor immediately. For further clarification or exceptions, see Iowa Code chapter 68B.

Use of State Property

You must protect government-owned and private property located on agency work sites or other state premises. Therefore, the following are prohibited: unauthorized entry to state premises; unauthorized use, abuse, misuse, or waste of property or materials; unauthorized possession or sale of items; and unlawful operation or use of state vehicles and equipment for other than state business. You must use the State's long-distance service and state-owned cellular phones for official state business only. You must keep local personal calls from state office phones to a minimum. State postage stamps and metered mail are for official business only. You must not use the State's internal mail system for the distribution or receipt of personal mail or packages.

You must check out state equipment through a management representative before removal from the premises. You may not take equipment off premises for personal use. You may use agency photocopy machines for personal copies at a charge to be set by the employing agency and with the approval of the employing agency.

If you are provided an access badge, you may not allow others to utilize the badge to permit entry to facilities. During all work hours, you should prominently display your badge, or carry it on your person, except when the card is being used to gain authorized electronic access to buildings, offices, facilities, or electronic communication equipment. You are responsible for the care and secure use of access badges provided by your employer and must report, immediately upon discovery, the loss or theft of any issued badge to management.

You are provided Internet and e-mail services by the State of Iowa to support open communications and exchange of information, as well as to provide the opportunity for collaborative government-related work. The State of Iowa encourages your use of electronic communications. Even though you may have your own password for accessing e-mail, the Internet, and computers issued to you, state computers and all the information received or transmitted through them is the property of the State. The State may monitor the use of state equipment and as such, you should not have any expectation of privacy. As with any resources made available to you, use of Internet and electronic communication services are revocable privileges. The use of state-provided Internet service must be for state government-related activities and not for personal business, for-profit activities, commercial advertising, shopping, entertainment, or other use which interferes with your productivity or reflects poorly upon state government. The use of state-provided Internet and e-mail in the transmittal, retrieval, or storage of any obscene material, as defined in Iowa Code section 728.1, will result in discharge.

If you misuse state-provided Internet and e-mail, allow others unauthorized entry to state facilities, or engage in unauthorized use and/or abuse of state property and equipment, you may be subject to disciplinary action, up to and including discharge.

Upon termination of employment, whether voluntary or involuntary, you must return all state equipment to your agency.

Use of Personal Electronic Devices

Your use of personal electronic devices in the workplace will be governed by your employing agency. If permitted, your use of personal electronic devices shall not interfere with your work.

Protection from Reprisal

Your employer shall not take reprisal action against you for disclosure of information by you to a member or employee of the General Assembly, the Office of the Ombudsman, or other political official or law enforcement agency, or for disclosure of information which you reasonably believe is evidence of a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For information about protection from reprisal, please see Iowa Code section 70A.28.

Disciplinary Actions and Your Rights

Disciplinary Actions

If you are covered by the merit system, you may be subject to any of the following progressive disciplinary actions when based upon a standard of just cause: written reprimand, disciplinary suspension, reduction of pay within the same pay grade, disciplinary demotion, discharge, or other appropriate disciplinary measures. Disciplinary action involving employees covered by a collective bargaining agreement shall also be in accordance with the provisions, if any, of the applicable agreement. Unless otherwise provided by statute or an applicable collective bargaining agreement, if you are a non-merit employee, you are not subject to the just cause standard and may be disciplined or discharged for any reason which is not in violation of the law.

Disciplinary action, up to and including discharge, may be based upon, but is not limited to, any of the following reasons: inefficiency, insubordination, less-than-competent job performance, unauthorized use or abuse of state property, failure to perform assigned duties, inadequacy in the performance of assigned duties, inattentiveness to duty, dishonesty, theft, improper use of leave, substance abuse, negligence, conduct which adversely affects your job performance or the agency, conduct unbecoming a public employee, misconduct, or any other just cause. The provisions of this handbook do not establish contractual rights or conditions of employment between the State and its employees.

In accordance with Iowa's Open Records laws (Iowa Code sections 22.7(11)(a)(5) and 22.15), information in confidential personnel records relating to the fact you resigned in lieu of termination, were discharged, or were demoted as the result of a disciplinary action and the documented reasons and rationale for the resignation in lieu of termination, the discharge, or the demotion may become public records.

Grievance Procedures

You have the right to file grievances. The procedures for filing grievances are outlined in the DAS-HRE rules or an applicable collective bargaining agreement containing a negotiated grievance procedure.

If you are an employee who is covered by a collective bargaining agreement containing a grievance procedure and have a grievance alleging a violation of the agreement, you must file the grievance using the appropriate forms provided by the union. For grievances alleging a violation of DAS-HRE rules and for issues not covered by a collective bargaining agreement, both contract-covered and non-contract employees must follow the procedures set forth in DAS-HRE rules and file a state employee grievance using the grievance form designated by DAS-HRE, which is available from your agency's human resources associate or online at <https://das.iowa.gov/human-resources>.

All grievances must state the issue(s) involved, the relief sought, the date of the incident, and any rule(s) or contract violation(s) involved. If you are covered by the merit system, issues involving disciplinary suspension, reduction in pay within the same pay grade, disciplinary demotion, or discharge must be filed as appeals in accordance with the procedures listed in DAS-HRE rules.

Violations of Rules and Policies

Violations of the work rules of your agency or of any of the State of Iowa's policies may result in discipline, up to and including discharge.

Policies

Equal Employment Opportunity, Affirmative Action, and Anti-Discrimination Policy

General Statement of Policy

It is the policy of the executive branch of state government in the State of Iowa to “Provide equal employment opportunity within state government to all persons.” (Iowa Code chapter 19B.) The intent of this policy is to ensure that individuals are not denied equal access to state employment opportunities because of their race, creed, color, religion, sex, national origin, age, physical or mental disability, sexual orientation, gender identity, pregnancy or pregnancy-related condition, consistent with applicable state and federal policies and regulations. It is also the policy of the executive branch of state government in the State of Iowa to apply affirmative action measures to correct the underutilization of females, minorities, and persons with disabilities in the state employment system whenever remedial measures are appropriate.

Full Policy

For the full text of the State of Iowa's EEO/AA, and Anti-Discrimination Policy, see Appendix A.

Policy Prohibiting Sexual Harassment

General Statement of Policy

The State of Iowa executive branch is committed to providing a workplace that is free from sexual harassment. State executive branch employees shall not engage in sexual harassment. Sexual harassment is a violation of both federal and state statute. Specifically, harassment on the basis of sex is a violation of Section 703 Title VII of the Civil Rights Act of 1964 (42 U.S.C. Sec. 2000e et seq.) as amended and Iowa Code section 19B.12 and chapter 216. Sexual harassment based on real or perceived sexual orientation or gender identity is a violation of Iowa Code chapter 216.

Allegations of sexual harassment will be taken seriously and prompt investigation will occur. It is the policy of the State of Iowa executive branch to maintain the confidentiality of sexual harassment complaints and investigations to the greatest extent possible. Complaints and records relating to complaints are confidential and not subject to disclosure under Iowa's open records laws.

Full Policy

For the full text of the Policy Prohibiting Sexual Harassment for Executive Branch Employees, see Appendix B.

Drug-Free Workplace and Substance Abuse Policies

General Statement of Policy

The State is committed to maintaining a safe work environment free from the use, abuse, and effects of alcohol, drugs, and controlled substances. The policies set forth expectations and identify prohibited conduct related to alcohol, drugs, and controlled substances. The policies discuss drug and alcohol dependencies as treatable illnesses. If you are in need of help, you are strongly encouraged to take advantage of the State's Employee Assistance Program.

Full Policies

For the full text of the State of Iowa's Drug-Free Workplace Policy, see Appendix C.

For the full text of the State of Iowa's Substance Abuse Policy, see Appendix D.

Smoking and Tobacco Use Policy

General Statement of Policy

The purpose of this policy is to establish a smoke-free environment for employees and the public as they transact business with or receive services from the State. This policy facilitates compliance with Iowa's Smokefree Air Act and administrative rules governing the use of tobacco-related products. The Iowa Smokefree Air Act was enacted in Iowa Code chapter 142D to improve the health of Iowans by reducing the level of exposure to environmental tobacco smoke.

Administrative rules related to this policy can be found at 641 IAC 153 and 11 IAC 100.3.

The policy identifies prohibited and authorized activities related to smoking and the use of tobacco-related products. The State recognizes employees may need assistance in stopping the use of tobacco products. If you are in need of help, you are strongly encouraged to take advantage of the State's Employee Assistance Program.

Full Policy

For the full text of the State of Iowa's Smoking and Tobacco Use Policy, see Appendix E.

Social Media Policy

General Statement of Policy

The policy sets forth expectations for both personal and professional use of social networking, social media, or web-based information sharing/open communication sites. The policy further identifies prohibited actions related to the use of such sites.

Full Policy

For the full text of the State of Iowa's Social Media Policy, see Appendix F.

Violence-Free Workplace Policy

General Statement of Policy

The State of Iowa is committed to providing a work environment free from threats, intimidation, harassment, and acts of violence against the public, vendors, clients, customers, and employees. The State of Iowa further establishes, as its vision, all of its officials and employees will treat each other and those they serve with courtesy, dignity, and respect.

Full Policy

For the full text of the State of Iowa's Violence-Free Workplace Policy, see Appendix G.

Appendix A: EEO/AA and Anti-Discrimination Policy

State of Iowa

EQUAL OPPORTUNITY, AFFIRMATIVE ACTION, AND ANTI-DISCRIMINATION POLICY FOR EXECUTIVE BRANCH EMPLOYEES

NOTIFICATION AND EFFECTIVE DATE

All executive branch employees are required to read this Equal Opportunity, Affirmative Action, and Anti-Discrimination Policy, and are expected to sign an Acknowledgment indicating that the Policy was read and fully understood by the employee. This Policy is being issued on October 25, 2018.

I. GENERAL STATEMENT OF POLICY

It is the policy of the executive branch of state government in the State of Iowa to “Provide equal employment opportunity within state government to all persons.” (Iowa Code chapter 19B.) The intent of this policy is to ensure that individuals are not denied equal access to state employment opportunities because of their race, creed, color, religion, sex, national origin, age, physical or mental disability, sexual orientation, gender identity, pregnancy or pregnancy-related condition, consistent with applicable state and federal policies and regulations. It is also the policy of the executive branch of state government in the State of Iowa to apply affirmative action measures to correct the underutilization of females, minorities, and persons with disabilities in the state employment system whenever remedial measures are appropriate.

II. DISCRIMINATORY HARASSMENT IN VIOLATION OF IOWA CODE CHAPTERS 216 AND 19B AND APPLICABLE FEDERAL STATUTES

Harassment of employees based upon their race, creed, color, religion, sex, national origin, age, physical or mental disability, sexual orientation, gender identity, pregnancy or pregnancy-related condition is a violation of the Iowa Civil Rights Act (Iowa Code chapter 216, as amended). For the Policy Prohibiting Sexual Harassment for Executive Branch Employees, see the following link:

https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/Policy-SexualHarassment.pdf.

Other laws also prohibiting discriminatory harassment in one or more of specified covered areas include: Iowa Code section 19B.12, Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1978, as amended; and the Americans with Disabilities Act of 1990.

Examples of discriminatory harassment based on the employees’ protected status include, but are not limited to:

- A. Abusing the dignity of an employee through insulting or degrading remarks or conduct.
- B. Threats, demands, or suggestions that an employee’s work status is contingent upon submission to harassment.

- C. Subjecting an employee to demeaning or degrading activities in order to gain co-worker acceptance, e.g., hazing.

III. DISCRIMINATORY PRACTICES IN VIOLATION OF IOWA CODE CHAPTER 216 AND THE FEDERAL AMERICANS WITH DISABILITIES ACT

A person with a disability is a person who has a physical or mental impairment that substantially limits a "major life activity," or has a record of such impairment, or is regarded as having such impairment. "Major life activities" include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

A "qualified" person with a disability is one who meets the legitimate job requirements and is able to perform the essential functions of the position with or without reasonable accommodations and without being a direct threat to the health or safety of themselves or others. Essential functions are absolute requirements for producing critical job results/outputs. Essential, by definition, means indispensable, vital, necessary, or related to the essence of the job. It does not include marginal functions or duties performed. As such, departments are not required to provide reasonable accommodations that would result in fundamental alterations in the nature of the work to be performed.

The State of Iowa and its departments, agencies and other instrumentalities and all their employment practices, services and programs shall comply with the requirements of the ADA. The ADA requires, in part, that the State of Iowa:

- A. Make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless fundamental alteration in the program or an undue hardship would result.
- B. May not refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability.
- C. Provide programs and services in an integrated setting unless separate or different measures are necessary to ensure equal opportunity.
- D. Prohibit requirements that tend to screen out individuals with disabilities, such as requiring a driver's license as the only acceptable means of identification.
- E. Eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their services, programs or activities unless "necessary" to the provisions of the services, program or activity.
- F. Impose safety requirements only when they are necessary for the safe operation of the program in question, such as requirements for eligibility for drivers' licenses if they are based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.
- G. Ensure that individuals with disabilities are not excluded or limited from participation in services, programs, and activities because buildings are inaccessible.
- H. Provide services, programs, and activities offered in the facility to persons with disabilities through alternative methods, if physical barriers are not removed.

IV. COMPLAINT REPORTING PROCEDURE

Any person who feels that he or she has been denied an employment opportunity, has had terms and conditions of employment adversely affected or has been subjected to discrimination because of the employee's race, creed, color, religion, sex, national origin, age, physical or mental disability, sexual orientation, gender identity, pregnancy or pregnancy-related condition should immediately report the matter to the attention of his or her immediate supervisor, agency director or other designated agency personnel. If the concern or complaint involves the employee's immediate supervisor, the employee is encouraged to file the complaint with the next highest supervisor, or, in the alternative, to the director of the Department of Administrative Services. An employee may also file a complaint with the Iowa Civil Rights Commission or the appropriate federal enforcement agency. (For sexual orientation or gender identity, protection is offered under the State of Iowa statute only.)

A person who is not an executive branch employee and who alleges he or she was subject to actions by an executive branch employee in violation of this policy may report the incident to the director of the department affected or to the director of the Department of Administrative Services.

A person who witnesses or has knowledge of a violation of this policy may report the incident to the director of the department affected or to the director of the Department of Administrative Services.

For reporting allegations of sexual harassment, please see the complaint reporting procedure set forth in the Policy Prohibiting Sexual Harassment for executive branch employees at https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/Policy-SexualHarassment.pdf.

V. INVESTIGATION PROCEDURE

The Department of Administrative Services is responsible for conducting investigations regarding complaints alleging violation(s) of this policy (for allegation involving sexual harassment, please see the Investigation Procedure set forth in the Policy Prohibiting Sexual Harassment for executive branch employees). All complaints alleging violation(s) of this policy shall be promptly investigated. All executive branch employees must cooperate fully with any investigation. Failure to cooperate with an investigation may result in discipline up to and including termination of employment.

VI. CORRECTIVE ACTION

The Department of Administrative Services will work with appropriate executive branch agency personnel to ensure corrective action is taken immediately to remedy violations of this policy. Corrective action may include disciplinary action up to and including termination of employment for parties whose conduct violates this policy. A manager or supervisor who fails to properly act upon complaints or who has personal knowledge of a violation of this policy and fails to take appropriate action shall be subject to disciplinary action up to and including termination of employment.

VII. RETALIATION PROHIBITED

Any form of discrimination or retaliation against an individual because he or she files a complaint or aids another individual in filing a complaint is prohibited. An employee who has reason to believe that he or she has been retaliated against because of participation in an investigation of a discrimination complaint may also file a complaint with the Department of Administrative Services,

the Iowa Civil Rights Commission, or the U.S. Equal Employment Opportunity Commission, whichever is appropriate.

VIII. ASSIGNMENT OF RESPONSIBILITIES

The director of the Department of Administrative Services is designated as the State Affirmative Action Administrator pursuant to Iowa Code section 19B.3 and shall be “responsible for the administration and promotion of equal opportunity and affirmative action efforts in the recruitment, appointment, assignment, and advancement of personnel by all state agencies except the state board of regents and the institutions under its jurisdiction.”

The director of the Department of Administrative Services shall also be designated as the State Americans with Disabilities (ADA) Coordinator in compliance with the U. S. Department of Justice’s Title II Regulations Section 35.107. The director shall carry out this responsibility as follows:

- A. Employment: The Human Resources Enterprise of the Department of Administrative Services shall be responsible for equal employment opportunity efforts under the ADA.
- B. Accessibility: The General Services Enterprise of the Department of Administrative Services shall be responsible for equal access to State facilities under the ADA.
- C. Complaint Reporting Procedure: The ADA Coordinator shall utilize existing complaint reporting procedures detailed in this policy to ensure that policies and procedures of the State of Iowa and its departments, agencies and other instrumentalities do not discriminate against persons with disabilities.

Department directors have the responsibility for the overall administration of this policy within their departments. This includes the following responsibilities:

- A. Equal Opportunity: Integrating equal opportunity into all parts of human resource and program management, reviewing all policies and procedures as they affect equal opportunity and ensuring compliance with relevant statutes.
- B. Affirmative Action: Implementing an internal system for auditing and remedying underutilization in the workforce, and annually reporting the effectiveness of affirmative action efforts to the director of the Department of Administrative Services.
- C. Prevention of Harassment: Making every reasonable effort to prevent all forms of harassment from occurring and taking immediate and appropriate corrective action when harassment is brought to their attention, either directly or indirectly. Any administrator, supervisor, or employee who engages in any form of discrimination or harassment prohibited by this policy or who retaliates against an individual who has complained of discrimination or harassment will be subject to disciplinary action up to and including discharge. Also, any administrator or supervisor who fails to act upon complaints of or on personal knowledge of workplace discrimination or harassment will be subject to disciplinary action up to and including discharge.
- D. Access to Program Services: Department directors shall ensure their activities, services and programs are in compliance with the ADA and accessible to the general public.

IX. TRAINING

The Department of Administrative Services shall offer training courses in equal opportunity, affirmative action, diversity, and prevention of discrimination/harassment through its Performance and Development Solutions (PDS) program area. These courses are found on the Department of Administrative Services—Human Resources Enterprise website at <https://das.iowa.gov/human-resources/training-and-development>. Executive branch employees are strongly encouraged to attend training offered through PDS.

X. RESOURCES

Individuals needing assistance may also contact the Department of Administrative Services – Human Resources Enterprise, Hoover Building, Level A, Des Moines, Iowa 50319. Phone: 515-281-3087 or dashre.info@iowa.gov.

The Iowa Civil Rights Commission and the Equal Employment Opportunity Commission administer laws and regulations regarding employment discrimination and harassment, which include deadlines for filing discrimination complaints. For more information, these agencies may be contacted at the following:

IOWA CIVIL RIGHTS COMMISSION

Iowa Civil Rights Commission
Grimes State Office Building, 400 E. 14th Street, Des Moines, IA 50319
515-281-4121; 800-457-4416 (toll free); 515-242-5840 (fax)
<http://icrc.iowa.gov>

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Reuss Federal Plaza
310 West Wisconsin Avenue, Suite 500
Milwaukee, WI 53203-2292
Phone: 1-800-669-4000

XI. POSTING

This policy is posted on the Department of Administrative Services website at https://das.iowa.gov/sites/default/files/hr/documents/aaeeo/eo_aa_policy.pdf and is incorporated in the State executive branch employee handbook. Executive branch agencies are responsible for distributing this policy to employees at the time of hire or orientation.

Last revised October 25, 2018

Appendix B: Policy Prohibiting Sexual Harassment

State of Iowa

POLICY PROHIBITING SEXUAL HARASSMENT FOR EXECUTIVE BRANCH EMPLOYEES

NOTIFICATION AND EFFECTIVE DATE

All executive branch employees are required to read this Policy Prohibiting Sexual Harassment, and are expected to sign an Acknowledgment indicating that the Policy was read and fully understood by the employee. This Policy is being issued on October 25, 2018.

I. GENERAL STATEMENT OF POLICY

The State of Iowa executive branch is committed to providing a workplace that is free from sexual harassment. State executive branch employees shall not engage in sexual harassment. Sexual harassment is a violation of both federal and state statute. Specifically, harassment on the basis of sex is a violation of Section 703 Title VII of the Civil Rights Act of 1964 (42 U.S.C. Sec. 2000e et seq.) as amended and Iowa Code section 19B.12 and chapter 216. Sexual harassment based on real or perceived sexual orientation or gender identity is a violation of Iowa Code chapter 216.

Allegations of sexual harassment will be taken seriously and prompt investigation will occur. It is the policy of the State of Iowa executive branch to maintain the confidentiality of sexual harassment complaints and investigations to the greatest extent possible (see Sections IV and V below for further information). **Complaints and records relating to complaints are confidential and not subject to disclosure under Iowa's open records laws.**

II. SEXUAL HARASSMENT DEFINED

Iowa Code section 19B.12 defines sexual harassment as "persistent, repetitive, or highly egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret as intentional harassment of a sexual nature, taking into consideration the full context in which the conduct occurs, which conduct threatens to impair the ability of a person to perform the duties of employment, or otherwise function normally within an institution responsible for the person's care, rehabilitation, education, or training."

There are two forms of unlawful sexual harassment:

- (1) an employee is subjected to unwelcomed speech or conduct, of a sexual or non-sexual nature, that is directed at the employee because of his or her sex, and the conduct creates a "hostile work environment;" and
- (2) an employment benefit or continued employment is conditioned on the employee's participation in some form of sexual behavior (also known as "quid pro quo harassment").

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either

explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Although unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are examples of unacceptable conduct in the workplace, unlawful sexual harassment is not dependent on whether offensive acts or comments were sexual in nature, but whether the acts or comments are directed at a person because of his or her sex. Sexual harassment can be committed by both men and women. And, it may occur between members of the opposite sex, or between members of the same sex. Sexual harassment can take place between (1) any two state employees, (2) a state employee and a non-state employee, including a contractor, or (3) between a state employee and a visitor, guest, client, patient, offender, or resident. Accordingly, this policy prohibits unwelcome, hostile or offensive conduct, whether of a sexual or non-sexual nature, that is directed at, or is motivated by, a person because of his or her sex.

Examples of sexual harassment, include, but are not limited to:

- Unwelcome sexual advances.
- Hostile conduct based on the person's sex, sexual orientation, or gender identity.
- Requesting or offering sexual favors in return for job benefits.
- Actions such as cornering, patting, pinching, touching or brushing against another person's body that are sexual in nature.
- Open speculation or inquiries about another person's sex life.
- Jokes, remarks, or innuendos that are sexual in nature or based on real or perceived sexual orientation or gender identity about another person, or about men or women in general.
- Displaying sexually explicit material in the work place.
- Conditioning work benefits on submission to sexual advances, tolerance of a sexually hostile work environment or giving preferential treatment because of another person's submission to sexual advances, or tolerance of a sexually hostile work environment.

III. EXECUTIVE BRANCH AGENCY AND EMPLOYEE DUTIES AND RESPONSIBILITIES

A. Employee Responsibilities

All executive branch employees are responsible for knowing and understanding this policy, and for maintaining a work atmosphere free of all forms of sexual harassment. In order to ensure the prompt investigation and response to any alleged incident of sexual harassment, each employee is strongly encouraged to immediately report any conduct prohibited by this policy in accordance with Section IV, below.

If an employee experiences or witnesses any incident of inappropriate or unprofessional behavior in the workplace he or she believes may violate this policy, the employee should immediately report the incident and, if circumstances permit, express his or her concerns directly to the offending person. However, if the employee is not comfortable with addressing concerns with the offending person, the employee may report the matter to his

or her direct supervisor, the next higher supervisor, the employee's agency director or other designated agency personnel. Alternatively, any complaint, including those regarding senior agency officials and directors, may be submitted directly to the director of the Department of Administrative Services or the Governor's Office without reporting the matter internally to the employee's agency. Once the incident is reported, the situation will be investigated in accordance with Section V, and appropriate action will be taken. All executive branch employees are expected to cooperate with an investigation undertaken pursuant this policy. Failure to cooperate with an investigation may result in disciplinary action, up to and including termination of employment.

B. Executive Branch Agency Responsibilities

Every executive branch agency shall ensure its managerial staff know, understand, and enforce this policy. Any agency managerial staff who fail to act upon an employee complaint, or on personal knowledge of a possible violation of this policy, will be subject to disciplinary action up to and including termination of employment. Furthermore, any managerial staff will be subject to disciplinary action up to and including termination of employment for engaging in any form of conduct prohibited by this policy or for retaliating against an individual: (1) who has made a good faith complaint pursuant to this policy; (2) who aids another individual who has made a complaint; or (3) who is interviewed in the course of an investigation pursuant to this policy.

Agency managerial staff shall immediately notify the Department of Administrative Services after receiving a complaint or alleged violation of this policy.

Executive branch agencies must provide this policy to new employees at the time of hiring or orientation as required by Iowa Code section 19B.12(5).

C. Department of Administrative Services Responsibilities

As required by Iowa Code section 19B.12, the Department of Administrative Services, through issuance of this policy, is adopting procedures for determining violations of Iowa Code section 19B.12. Additionally, the Department of Administrative Services is responsible for the distribution of this policy to executive branch agencies, who are required to provide it to new employees at the time of hiring or orientation.

The Department of Administrative Services is responsible for investigating all complaints filed under this policy unless directed otherwise by the Governor's Office.

IV. COMPLAINT PROCEDURE

Any employee who believes that he or she has been subjected to sexual harassment prohibited by this policy, or individuals who witness or have knowledge of possible sexual harassment, should immediately report the matter to his or her direct supervisor, the next higher supervisor, their agency director or other designated agency personnel. Alternatively, any complaint, including those regarding senior agency officials and directors, may be submitted directly to the director of the Department of Administrative Services or the Governor's Office without reporting the matter internally to the employee's agency.

To facilitate the investigation of a sexual harassment complaint, the employee is encouraged to fill out the employee complaint form found at the following link: https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/M-0318_Complaint_form_fillable.pdf. However, an investigation of a sexual harassment complaint will be undertaken regardless of the manner in which the complaint is conveyed.

Every complaint made pursuant to this policy shall be promptly investigated to the extent necessary to determine whether a violation of this policy occurred, and whether remedial measures are necessary. **Complaints and records relating to complaints are confidential and not subject to disclosure under Iowa's open records laws.**

V. INVESTIGATION PROCEDURE

All complaints alleging violation(s) of this policy shall be promptly investigated by the Department of Administrative Services unless directed by the Governor's Office to be investigated by another agency or entity. All executive branch employees must cooperate fully with any investigation. Failure to cooperate with an investigation may result in discipline up to and including termination of employment.

All complaints and investigations shall be handled in a manner that protects the privacy of those involved. Confidentiality will be maintained throughout the investigatory process and information will be disclosed only to those people with a legitimate need to know about the matter. Total confidentiality, however, cannot be guaranteed because it may not be possible to conduct an effective investigation without revealing certain information to the alleged responsible party and potential witnesses.

To protect the privacy of those involved, all persons shall refrain from discussing the complaint except as necessary for the furtherance of the investigation. Persons interviewed will be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with the confidentiality directive may result in disciplinary action up to and including termination of employment.

VI. CORRECTIVE ACTION

The Department of Administrative Services will work with appropriate executive branch agency personnel to ensure corrective action is taken immediately to remedy violations of this policy. Corrective action may include disciplinary action up to and including termination of employment. A manager or supervisor who fails to properly act upon a complaint or who has personal knowledge of a violation of this policy and fails to take appropriate action shall be subject to disciplinary action up to and including termination of employment.

VII. RETALIATION PROHIBITED

Any form of retaliation against someone for resisting sexually harassing behavior, reporting a complaint under this policy, assisting the complainant, or cooperating in an investigation of a complaint is strictly prohibited by this policy, and may be unlawful. No executive branch employee will be reprimanded or retaliated against for initiating an inquiry or complaint in good faith or for cooperating in good faith in the investigation of a complaint. Any incident experienced or witnessed by an employee that is believed to be an act of retaliation should immediately be reported to the employee's supervisor, appointing authority or designee, the Department of Administrative Services

or the Governor's Office. A report of retaliatory behavior shall be regarded as a separate and distinct case for investigation and discipline, regardless of the outcome of the original complaint.

VIII. TRAINING

The Department of Administrative Services shall offer training courses in preventing sexual harassment through its Performance and Development Solutions (PDS) program area. These courses are found on the Department of Administrative Services—Human Resources Enterprise website at <https://das.iowa.gov/human-resources/training-and-development>. Executive branch employees are strongly encouraged to attend training offered through PDS.

IX. OTHER STATE AND FEDERAL RESOURCES

This policy is intended to provide a mechanism for quickly identifying and correcting instances of sexual harassment within the executive branch. Nothing contained in this policy is intended to replace or deny any rights available under applicable local, state and federal laws or regulations.

The Iowa Civil Rights Commission and the Equal Employment Opportunity Commission administer laws and regulations regarding employment discrimination and harassment, which include deadlines for filing discrimination complaints. For more information, these agencies may be contacted at the following:

IOWA CIVIL RIGHTS COMMISSION

Iowa Civil Rights Commission
Grimes State Office Building, 400 E. 14th Street, Des Moines, IA 50319
515-281-4121; 800-457-4416 (toll free); 515-242-5840 (fax)
<http://icrc.iowa.gov>

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Reuss Federal Plaza
310 West Wisconsin Avenue, Suite 500
Milwaukee, WI 53203-2292
Phone: 1-800-669-4000

X. POSTING

This policy is posted on the Department of Administrative Services website at https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/Policy-SexualHarassment.pdf and is incorporated in the State executive branch employee handbook. Executive branch agencies are responsible for distributing this policy to employees at the time of hire or orientation.

Last revised October 25, 2018

Appendix C: Drug-Free Workplace Policy



EXECUTIVE ORDER NUMBER 38

- WHEREAS, employees of the State of Iowa are a most valuable resource to the citizens they serve and the State as an employer; and
- WHEREAS, the use of illegal drugs or abuse of controlled substances or alcohol in the workplace is detrimental to the State's employees; and
- WHEREAS, employees have the right to work in a drug-free environment and to work with persons free from the effects of drugs and alcohol; and
- WHEREAS, drug and alcohol abuse in the workplace interferes with and reduces the operational efficiency of state government and undermines the public's trust in its functions; and
- WHEREAS, the State of Iowa is committed to maintaining a workplace free from the influences of drugs and alcohol.
- NOW, THEREFORE, I Terry E. Branstad, Governor of the State of Iowa, by virtue of the authority vested in me by the laws and Constitution of the State of Iowa and in support of our continuing efforts to ensure a drug-free workplace for all employees of the State of Iowa, do hereby order and institute the following policy regarding substance abuse and the unlawful possession of controlled substances on the employer's premises:
- I. Employees are expected and required to report to work on time and in appropriate mental and physical condition for work. It is the State of Iowa's intent and obligation to provide a drug-free work environment.
 - II. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance on the employer's premises or while conducting the employer's business is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.

- III. The State recognizes drug and alcohol dependency as illnesses and a major health problem. The State also recognizes drug and alcohol abuse as a potential health, safety and security problem. Employees needing help in dealing with such problems are encouraged to use our employee assistance program. Conscientious efforts to seek such help will not jeopardize an employee's job.
- IV. In order to comply with the Drug Free Workplace Act of 1988, employees are required to report any conviction under a criminal drug statute for violations occurring on the employer's premises while conducting state business. A report of a conviction must be made to the employee's supervisor or other appropriate official within five (5) days after the conviction.
- V. Compliance with the terms and reporting requirements of this policy is required as a condition of employment for all employees.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 17th day of March in the year of our Lord one thousand nine hundred eighty-nine.

Appendix D: Substance Abuse Policy

State of Iowa

SUBSTANCE ABUSE POLICY FOR EXECUTIVE BRANCH EMPLOYEES

NOTIFICATION AND EFFECTIVE DATE

All executive branch employees (herein “employees”) are required to read this revised Substance Abuse Policy, and will be expected to sign an Acknowledgement indicating the Policy was read and fully understood by the employee. This Policy is being issued without revision on October 25, 2018.

I. PROHIBITED ACTIVITIES

Employees who conduct state business under the influence of alcohol or an unauthorized controlled substance (herein “controlled substance”) present a threat to the health, safety, and welfare of their own persons, their fellow employees, and the public at large. The State of Iowa is committed to ensuring its employees remain free from the effects of alcohol or controlled substances while conducting state business. Therefore, employees are prohibited from:

- possessing, consuming, purchasing/selling, or manufacturing alcoholic beverages or controlled substances, while they are conducting state business or are on state property;
- reporting to work for the State of Iowa under the influence of an alcoholic beverage or a controlled substance;
- the unauthorized use or abuse of a prescription medication while they are conducting state business or are on state property; and/or
- driving a state vehicle or a personal vehicle when the employee is engaged in state business, within an eight (8) hour period after consuming an alcoholic beverage, using a controlled substance, or engaging in the unauthorized use/abuse of a prescription medicine.

Absent mitigating circumstances, an employee’s involvement in one or more of the prohibited acts listed above may result in summary discharge. “Summary discharge” shall mean a discharge from employment with the State of Iowa after the state substantiates the alleged offense through a fair and thorough investigation. It is unnecessary for the State of Iowa to implement other forms of discipline (e.g., verbal warnings, reprimands, or suspensions) before issuing a summary discharge.

II. OTHER ACTIVITIES INVOLVING SUBSTANCE ABUSE AND WARRANTING REPRIMAND, SUSPENSION, OR TERMINATION

Absent mitigating circumstances, any of the following shall result in a reprimand, suspension, or a summary discharge:

- A. The suspension or revocation of an employee’s driver’s license, chauffeur’s license, or commercial driver’s license, if an employee’s job duties require the employee to possess the

license, and the loss of his/her driving privileges results in the employee's failure to meet the minimum qualifications for his/her job.

- B. The employee engages in off-duty misconduct which either: (1) impairs the employee's ability to perform his/her job function; (2) substantially effects the public's perception of the employee's ability to perform his/her job function; or (3) causes substantial damage to the reputation of the employer. The employee may be subject to reprimand, suspension, or termination even if no arrest or conviction results from the off-duty misconduct.
- C. The employee reports to work displaying symptoms the employee has consumed an alcoholic beverage or a controlled substance.
- D. The employee demonstrates below standard job performance or on-the-job misconduct, including, but not limited to, excessive absenteeism or tardiness.

III. EMPLOYEE ASSISTANCE PROGRAM

The State of Iowa recognizes dependency upon alcohol or a controlled substance is a treatable illness. Such dependencies can cause major health, safety, and security problems for the employee, fellow employees, and the public at large. Employees who need assistance to address these problems are encouraged to take advantage of the confidential Employee Assistance Program (EAP). For more information, please see the following link: <https://das.iowa.gov/human-resources/healthy-opportunities/employee-assistance-program>.

Last revised July 1, 2017

Appendix E: Smoking and Tobacco Use Policy

State Of Iowa

SMOKING AND TOBACCO USE POLICY FOR EXECUTIVE BRANCH EMPLOYEES

NOTIFICATION AND EFFECTIVE DATE

All Executive Branch employees (herein “employees”) are required to read this Smoking and Tobacco Use Policy, and will be expected to sign an Acknowledgement indicating that the policy was read and fully understood by the employee. All employees are required to abide by the standards set forth in this policy. Individual department policies may differ because some departments may be exempted from certain provisions of the policy. However, individual department policies must also be read and acknowledged by the employee. This Policy is being issued without revision on October 25, 2018.

I. GENERAL STATEMENT OF POLICY

The purpose of this policy is to establish a smoke-free environment for employees and the public as they transact business with or receive services from the State. This policy facilitates compliance with Iowa’s Smokefree Air Act and administrative rules governing the use of tobacco-related products. The Iowa Smokefree Air Act was enacted in Iowa Code chapter 142D to improve the health of Iowans by reducing the level of exposure to environmental tobacco smoke. Administrative rules related to this policy can be found at 641 IAC 153 and 11 IAC 100.3.

For purposes of this policy, “smoking” includes, but is not limited to, burning or vaporizing tobacco or other products in a cigarette, cigar, pipe, electronic cigarette, or any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance.

For purposes of this policy, tobacco includes any type of tobacco product including, but not limited to, cigarettes, cigars, cigarillos, electronic cigarettes, pipes, bidis, hookahs, smokeless chewing tobacco, and/or snuff.

II. PROHIBITED ACTIVITIES

- A. Smoking is prohibited within the confines of all State operated/owned facilities.
- B. Smoking is prohibited within the confines of all State operated/owned vehicles.
- C. Smoking is prohibited on the grounds of any public building including the Capitol Complex grounds. Grounds is defined as an outdoor area of a public building that is used in connection with the building, including but not limited to, a sidewalk immediately adjacent to the building; a sitting or standing area immediately adjacent to the building; a patio; a deck; a curtilage or courtyard; or any other outdoor area as designated by the person having custody or control of the public building.

- D. Smoking is not allowed in any existing huts or any enclosed areas formerly used as smoking areas.
- E. Use of tobacco products is prohibited in all space in Capitol Complex buildings controlled by the Executive Branch including tunnels and enclosures.
- F. Use of tobacco products is prohibited on the grounds of the Capitol Complex.

III. STATE/LEASED PROPERTY OUTSIDE CAPITOL COMPLEX

For state property outside the Capitol Complex and for offices leased by the State of Iowa, the provisions of this policy will apply unless otherwise noticed by the employing department.

IV. AUTHORIZED ACTIVITIES

Smoking and the use of tobacco is authorized within the confines of enclosed privately-owned motor vehicles that are located on the Capitol Complex.

V. VIOLATIONS

Violations of this policy may result in disciplinary action.

VI. EMPLOYEE ASSISTANCE

The State of Iowa recognizes that employees may need assistance in stopping the use of tobacco products. The State offers the following information for assistance in the transition process:

QUITLINE IOWA – Quitline Iowa provides free smoking cessation services to all Iowans. Quitline Iowa can provide assistance every step of the way. An expert Quit Coach is available to provide support over the phone and online as you follow a Quitting plan customized to your needs. You may also be eligible for eight weeks of nicotine patches, gum or lozenges. Call 1-800-QUIT-NOW (1-800-784-8669) or visit www.quitlineiowa.org for more information.

EMPLOYEE ASSISTANCE PROGRAM – The Employee Assistance Program (EAP) is a confidential program available to all employees and their families. For more information, please see the following link: <https://das.iowa.gov/human-resources/healthy-opportunities/employee-assistance-program>.

IOWA SMOKE FREE AIR WEBSITE – Iowa Department of Public Health's website, <https://smokefreeair.iowa.gov> is a good resource regarding the Iowa Smokefree Air Act.

Last revised November 17, 2014.

Appendix F: Social Media Policy

State of Iowa

SOCIAL MEDIA POLICY FOR EXECUTIVE BRANCH EMPLOYEES

NOTIFICATION AND EFFECTIVE DATE

All Executive Branch employees (herein “employees”) are required to read this Social Media Policy, and will be expected to sign an Acknowledgement indicating that the policy was read and fully understood by the employee. All use of social networking sites by state agencies should be consistent with applicable state, federal, and local laws, regulations, and policies, including all information technology security policies. All employees are required to abide by the standards set forth in this policy. This Policy is being issued without revision on October 25, 2018.

All use of social media, including social networking sites, by state agencies should be consistent with applicable state, federal, and local laws, regulations, and policies, including all information technology security policies. This policy applies to any social networking, social media, or web-based, information sharing/open communication site (including, but not limited to, Facebook, Twitter, blogs, wikis, and message boards).

Nothing in this policy shall be interpreted or applied as limiting an employee’s right to engage in speech protected by the United States and Iowa Constitutions or as limiting the right to engage in protected concerted activity, including employee discussion regarding the terms and conditions of employment.

I. PERSONAL USE

A state employee’s personal use of any social networking, social media, or web-based site should remain personal in nature and should be used to share personal opinions and other non-work-related information. Absent express consent by a state agency, a state employee should not use his or her personal social networking, social media, or web-based site to conduct state business.

State employees, especially those possessing leadership responsibilities and those choosing to identify themselves as employees of the State, should consider whether statements they publish may be construed as expressing official state or agency positions and whether or not such statements are accurate representations. A state employee should also take appropriate steps to ensure that communications made in an employee’s personal capacity represent that employee’s personal opinion and do not reflect or represent the opinion of the State of Iowa or the department or agency for which the employee works. Depending on the circumstances and to ensure an employee’s personal postings are not wrongfully attributed to the State, an employee may wish to post a disclaimer such as:

The postings on this site are my own opinion and do not reflect or represent the opinions of the State of Iowa or the department/agency for which I work.

For purposes of maintaining and securing information technology and data, state employees are prohibited from using their state e-mail account or username in conjunction with a personal social networking, social media, or web-based site, unless prior authorization is given. Employees are strongly encouraged to avoid using their state password in conjunction with a personal social networking, social media, or web-based site.

II. PROFESSIONAL USE

All official state agency-related communication through social media, social networking, and web-based sites shall remain professional in nature, and shall be conducted in accordance with state policy, practices, and expectations. State employees must not use official state agency social media, social networking, or web-based sites to conduct private commercial transactions or to engage in private business activities. Only individuals authorized by a state agency may publish content to an agency website or agency social computing technologies.

III. PROHIBITED ACTIONS

Employees shall not:

- Discuss or display information, including photographs, online that is confidential or proprietary to the State, or to a third party that has disclosed information to the State.
- Make disparaging statements online concerning customers or clients of the State.
- Engage in any online actions that would violate the State's Violence Free Workplace Policy.
- Engage in any online actions that would violate the State's Equal Opportunity, Affirmative Action, and Anti-Discrimination Policy.
- Use social media or networking sites that are controlled or owned by the State in a manner that violates federal or state law, administrative rules, or applicable policies (including, but not limited to, information technology and information security policies).

IV. VIOLATIONS

Violations of this policy may result in disciplinary action up to and including discharge.

Employees are responsible for reporting suspected violations of this policy to their direct supervisor. If the suspected violation involves the employee's immediate supervisor, the employee is encouraged to report it to the next highest supervisor or, in the alternative, to the Director of the Iowa Department of Administrative Services.

V. DEPARTMENT/AGENCY POLICIES AND WORK RULES

State departments and agencies may develop specific social media policies and/or work rules that further enhance this policy.

Last revised November 17, 2014

Appendix G: Violence-Free Workplace Policy

State of Iowa

VIOLENCE-FREE WORKPLACE POLICY FOR EXECUTIVE BRANCH EMPLOYEES

NOTIFICATION AND EFFECTIVE DATE

All executive branch employees (herein “employees”) are required to read this revised Violence-Free Workplace Policy, and will be expected to sign an Acknowledgement indicating the Policy was read and fully understood by the employee. This Policy is being issued without revision on October 25, 2018.

I. POLICY STATEMENT

The State of Iowa is committed to providing a work environment free from threats, intimidation, harassment, and acts of violence against the public, vendors, clients, customers, and employees. The State of Iowa further establishes, as its vision, all of its officials and employees will treat each other and those they serve with courtesy, dignity, and respect.

Accordingly, the State of Iowa is committed to:

- Preventing violence in the work environment,
- Providing resources and complaint resolution procedures for employees who experience or encounter violence in the work environment, and
- Maintaining a respectful work environment which promotes positive conflict resolution.

II. PROHIBITIONS

- A. Employees are prohibited from the possession, sale, transfer, or use of any dangerous weapon while engaged in state business.

This prohibition shall not apply to peace officers and other state employees who have been issued professional weapons permits by the Commissioner of the Department of Public Safety for use by these employees when acting under the authority of their agency. Further, this policy is not intended to restrict employees who live in state owned housing from the legal possession of weapons in their homes, if allowed by the appointing authority. This policy is not intended to restrict state employees from engaging in legal hunting and recreational activities on state owned property during off-duty hours.

- B. Employees are prohibited from engaging in harassment of the public, vendors, clients, customers, and employees in accordance with the State of Iowa's Equal Opportunity, Affirmative Action and Anti-Discrimination Policy.
- C. Employees are prohibited from engaging in violence towards the public, vendors, clients, customers, and employees. Violence is defined as the actual or threatened use of physical

force, actions, or verbal or written statements which either results in or is likely to result in physical or mental pain or injury to another person, group of persons, or damage to property. Violence may be a single occurrence or it may be a pattern of behavior which intimidates, degrades, or offends another person or a group of persons.

III. AFFIRMATIVE DUTIES

- A. An employee who is the victim of workplace violence shall report the incident immediately in accordance with the procedures established by this policy.
- B. An employee witnessing workplace violence or the potential for such violence directed at another person or property of the state, shall report such incidents in accordance with the procedures established by this policy.
- C. When applicable, state officials and employees shall cooperate fully with all appropriate individuals in the investigation and prosecution of criminal acts, this policy, and the pursuit of any civil remedies in order to create and maintain a violence-free workplace.

IV. REPORTING PROCEDURES

Any employee who has been the victim of workplace violence, who witnesses workplace violence, or who believes there is the potential for workplace violence to occur shall notify the Iowa Department of Administrative Services—Human Resource Enterprise Employee Relations. Employees who believe this policy has been violated may file a complaint directly with Employee Relations using Employee Complaint form #552-0318 available on the Iowa Department of Administrative website at the following link: https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/M-0318_Complaint_form_fillable.pdf.

Alternatively, employees may notify their management in accordance with their agency's established complaint procedure. All complaints filed in accordance with the agency's complaint procedure shall be forwarded to the Iowa Department of Administrative Services—Human Resource Enterprise Employee Relations within 48 hours of receipt of the complaint.

Iowa Department of Administrative Services—Human Resources Enterprise Employee Relations will promptly investigate all complaints.

In the event of a situation requiring intervention by law enforcement personnel, the appropriate law enforcement agency should be contacted immediately.

V. REMEDIES FOR POLICY VIOLATIONS

Corrective action will be taken to remedy violations of this policy when warranted, up to and including the discharge of parties whose conduct violates this policy.

Any manager or supervisor who fails to properly act upon employee complaints or on personal knowledge of conduct in violation of this policy shall be subject to disciplinary action up to and including discharge.

Issued August 1, 1996 – Revised November 17, 2014; July 1, 2017.

Acknowledgement of Receipt

I, _____, acknowledge I have received the
Employee's Name

State of Iowa Employee Handbook, which includes the Equal Employment Opportunity, Affirmative Action and Anti-Discrimination Policy; the Policy Prohibiting Sexual Harassment for Executive Branch Employees; the Drug-Free Workplace Policy; the Substance Abuse Policy; the Smoking and Tobacco Use Policy; the Social Media Policy; and the Violence-Free Workplace Policy. I have been directed to read the *Employee Handbook*, including its policies, and was offered an opportunity to ask questions about its contents. I am also aware I am expected to read and be familiar with any updates to the information contained in this handbook. I acknowledge this handbook is not a contract between the State of Iowa and me. I further acknowledge individual state agencies may have more specific policies in place which augment those contained in this handbook.

Employee's Name (print), Employee ID #

Employee's Signature

Date

Supervisor's Signature

Date

Place the original of this form in the employee's personnel file. Provide a copy to the employee.

Attachment S: Iowa Department on Aging IDA Employee Handbook

(Go back to policy [Omb-27](#))



IDA EMPLOYEE HANDBOOK

Supplemental Policies and Procedures to the State of Iowa Employee Handbook

Iowa Department on Aging
Jessie Parker Building
510 E 12th Street, Ste. 2
Des Moines, Iowa 50319

August 2017

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Introduction

The information in this handbook is intended to supplement existing policies and procedures. It is not intended to replace or supplant the contents of the [State of Iowa Employee Handbook](#), the Department of Administrative Services ([DAS](#)) [State Accounting Policies and Procedures Manual](#), any applicable workplace rules and policies, or [any of the State's collective bargaining agreements](#).

The DAS Supplemental Policies and Procedures Manual does not create an employment contract.

Employee Notification of Changes to Handbook

When material changes are made to this handbook, all DAS employees will be notified by email or directly by their supervisor. Employees will be asked to sign an acknowledgement document which must be returned to the DAS Human Resources Enterprise.

Work Rules and Policies

All questions regarding work rules should be directed to your supervisor. Any violations of work rules and/or policies may be sufficient grounds for disciplinary actions up to and including discharge. In all cases, IDA considers discipline as any corrective action necessary to improve overall employee performance.

Attendance and Punctuality

Your job within IDA is very important. You contribute to providing essential services to the public and to other governmental entities. Thus, attendance is important. IDA employees are expected to report to work on time, observe the time limits of their breaks, and to work their entire assigned shift unless taking authorized leave.

Unexcused or excessive absenteeism or tardiness is prohibited. Employees must not improperly use or abuse sick leave. Failure to provide a doctor's statement when required may lead to disciplinary action.

Requests for authorized leave without pay must be submitted in writing to your immediate supervisor and will be considered at supervisory discretion, in accordance with applicable collective bargaining agreements, IDA rules and the Family and Medical Leave Act (FMLA). See [Departure from Normal Work Hours](#)

Breaks

See [Work Hours and Breaks](#).

Building Maintenance

To report needed maintenance or repairs within the office space, please contact administrative assistant of the Division of Programs & Administration.

Building Security

All employees are expected to help keep our building and work areas secure by taking the following steps:

- Do not share keys or security badges
- Do not make duplicates of keys without authorization
- Report all missing or stolen keys and badges immediately to your supervisor
- Do not prop open any locked doors
- Do not allow angry or upset visitors into secure areas without notifying your supervisor.

Employees should be aware of unauthorized individuals entering secure areas. If you observe any suspicious behavior or believe a security incident may happen, contact the Iowa State Patrol - Post 16 at 515-281-5608.

Computer Security

Employees are expected to maintain state-issued computers and electronic devices in a secure manner. Do not share your passwords with other workers.

The Office of the Chief Information Officer (OCIO) offers training in computer and information security. Completion of this training is mandatory. If you have not completed this training or would like refresher training, please notify your supervisor.

Any laptops, devices or removable media not issued by DAS must undergo a security review before connecting to the DAS local area network (LAN). DAS staff may request a security review from the Information Security Office. The review must be requested in advance of the intended visit/connection. This policy does not apply to the DAS-Guest wireless network.

All individuals are required to ***immediately*** report to the Iowa Department on Aging's Information and Technology Team Lead, or a team member in the absence of the Team Lead, any of the following:

- Suspected or actual security breaches of information – whether in printed, verbal, or electronic form – or of information systems used in the pursuit of the Department's mission.
- Abnormal systematic unsuccessful attempts to compromise information – whether in printed, verbal, or electronic form – or information systems used in the pursuit of the Department's mission.
- Suspected or actual weaknesses in the safeguards protecting information – whether in printed, verbal, or electronic form – or information systems used in the pursuit of the Department's mission.

The IT Team Lead will be the first point of contact related to misuse or abuse of the Department's information and information technology resources, regardless of the division involved. This includes computer and network security breaches, privacy breaches or concerns, and unauthorized disclosure or modification of Departmental or personal information.

The IT team will do some preliminary fact investigation into the incident using the Security Breach Checklist. If it is determined a security breach did occur, incident information will be routed to the correct officials.

The following data will be tracked and reported to OCIO at the end of the month of occurrence or upon data breach finding.

- Lost/stolen laptops, removable media, & mobile devices,

- Malware infection (malware gets onto an IDA computer),
- Server compromise,
- Website defacement,
- Employee misconduct (misuse of agency computer or confidential information), and
- Phishing (IDA employee responds to phishing attempt.).

Use of flash drives

- Outside/personal flash drives may not be used on state owned equipment.
- The team lead for “Team IT”) will ensure that all department flash drives meet OCIO requirements related to encryption and are inventoried.
- Encrypted/Inventoried Department flash drives can be checked out from Reception in a time-limited manner and will need to be returned by a date certain.
- Ombudsman or other IDA out stationed employees will each be issued one encrypted/inventoried state owned flash drive upon request.

Conference Rooms and Reservations

Reservation of the IDA conference rooms shall be made through the department’s electronic calendar. When reserving a meeting room, schedule the specific day and time slot for the room(s) required by entering the purpose and the name of the staff person making the reservation.

Reservations for external use – All conference rooms are available to other state entities as well as IDA. All requests for non-IDA use (the public and other outside entities) must make their request and reservations through the department’s receptionist. Previously scheduled IDA uses take precedence.

For scheduling a meeting off-site, please consult division administrative support.

Confidentiality

In the course of day-to-day duties, IDA employees may have access to confidential information and records.

It is vital to preserve confidentiality, and use information necessary for business purposes only. Employees are not to share or discuss confidential business matters with other employees who do not have a need to know, or persons outside the office, even family members.

Additionally, some IDA employees are required to sign confidentiality agreements due to the sensitive nature of information your work requires.

Willfully inspecting or accessing confidential information or records without authorization or without a business purpose may lead to disciplinary action up to and including discharge.

Conflict of Interest

IDA must conduct its business without any appearance of unethical business practices. Employees shall avoid any activity which impairs or would reasonably appear to impair the ability to perform their duties with independence and objectivity.

If someone could keep you from acting in the best interests of IDA, you may have a conflict of interest. When you become aware of a possible conflict of interest, or even the appearance of one, you must immediately bring the matter to the attention of your supervisor.

Accepting a gift or service from a customer or business associate may constitute a conflict of interest. If you receive such a gift or service, you must immediately report it to your supervisor who will advise you regarding the gift or service.

Departure from Normal Work Hours

Adjusted Hours

Hours that deviate from an employee's normal scheduled work hours may be allowed with prior approval from the supervisor. The following provisions apply:

- Adjustment of hours must be within one work week (Friday – Thursday)
- Adjusted hours must add up to 40 hours total
- Hours in excess of 40 hours a week or 8 hours a day must have prior supervisory approval and submission of required documents.

Leave Requests

An employee shall request leave in advance whenever possible and if not possible, immediately upon return to work. Lack of planning does not constitute justification for late requests. The employee shall send the completed leave form to:

- Division of Programs and Administration - to the Lead Worker [LW] or Administrative Assistant if LW is not applicable
- Division of Elder Rights- to the Administrative Assistant of the division, with a cc to the supervisor
- Office of the Director – to LW or Executive Secretary if LW is not applicable

This procedure applies to leave for vacation, compensatory, sick, enforced, funeral, educational, military leaves, leave without pay, adjusted hours and all other types of leave, as appropriate.

See also Sick Leave (below)

Overtime / Comp Time

Your supervisor may adjust your workweek during emergencies or periods requiring extra work. Overtime may be required to ensure a timely response to employees' and customers' inquiries. Overtime compensation is made in accordance with the federal Fair Labor Standards Act, DAS-HRE rules, and the applicable collective bargaining agreement. If you are eligible for overtime pay, you must have prior approval from your supervisor to work overtime. Generally, overtime requests will not be granted in a payroll week in which a staff member has used vacation, compensatory time or sick leave (A payroll week is defined as Friday through Thursday).

Occasionally, additional work hours cannot be foreseen when in travel status. Hours may be incurred due to changes by airlines or unavoidable work hours outside of a normal work day. In these cases, contacting a supervisor or lead worker via phone, voicemail or e-mail is required, with an estimate of work time that will likely be incurred. Supervisors may provide specific guidance in advance related work schedule/work hours when employees are attending conferences, training events or any other work related function.

Please refer to your collective bargaining agreement, DAS-HRE rules, or consult your supervisor for specific information.

Sick Leave

Employees may need to be absent from work due to bona fide sickness or emergency illness within the immediate family. Sick leave is permitted for appropriate purposes only. Rules governing sick leave are found in the applicable collective bargaining agreements and the DAS-HRE Administrative Rules, Chapter 11-63 [11 IAC 63].

Excessive absenteeism or abuse of sick leave will not be tolerated, and may result in disciplinary action.

In those instances when a doctor's statement is required, failure to provide this statement in a timely manner may result in disciplinary action.

Employees are encouraged to schedule medical appointments during off-duty hours, or at the beginning or end of the work day.

The employee should fill out a leave request and receive supervisory approval prior to a scheduled appointment time whenever possible. For employee sickness or emergency illness within the immediate family, the leave request should be completed on the first day

the employee returns to work. All approved leave must be correctly reflected on the employee's work calendar.

The above guidelines are to be uniformly and consistently applied throughout the Department. However, some supervisory discretion and flexibility may be allowed in light of the circumstances surrounding individual circumstances.

In some instances, leave administered under [FMLA](#) may apply. Your supervisor or Human Resources Associate will advise you on this subject.

Dress Code

Employees will present themselves in a manner that reflects a professional atmosphere and enhances the Department's mission and image. All employees will observe good grooming and personal hygiene.

IDA employees are expected to maintain 'business casual' attire at work from Monday through Thursday. These employees may wear casual clothing on Fridays.

Employees conducting business off-site should make an effort to determine the dress code and clothing attire expectations at their off-site destination. In such cases, 'business casual' may not be appropriate.

If you would like to request an exemption or variation from the dress code for medical or religious reasons, please contact your supervisor.

Management reserves the right to determine whether your attire is appropriate for your job functions. Employees who fail to adhere to this policy may be sent home to change on the employee's own time.

Family and Medical Leave Act (FMLA)/ Reporting to Reed Group

The State uses a third-party vendor, the Reed Group, for Family and Medical Leave Act (FMLA) administration.

Employees must report any FMLA-related work absences to both their supervisor and the Reed Group. Contacting Reed Group does not excuse an employee from the requirement to notify their supervisor.

The Reed Group may be contacted toll-free at (844) 507-5393. FMLA leave may be initiated online at:

<http://www.stateofiowa.leavepro.com>

For more information regarding the Family and Medical Leave Act, visit:

<https://das.iowa.gov/human-resources/fmla>

Gambling

If an employee chooses to gamble, it is not to take place on work time or using state resources.

The State issues a variety of electronic devices (computers, tablets, mobile phones, etc.) for business purposes. These devices are not to be used for personal reasons or to access online gambling sites, sports betting sites, or fantasy sports sites.

If you are affected by a gambling problem (yours or someone else's), you are encouraged to contact the Employee Assistance Program at (800) 327-4692. To learn more about available services and resources, please visit: www.efr.org/myeap

Human Resources Associate

Keeping your employment records up to date is important. Please notify your Human Resources Associate of any changes to your legal name, address, phone number, emergency contacts, or number of dependents.

Information Technology Help

The OCIO Service Desk support call center is the first level of contact for all technical issues and questions. Service Desk information and assistance are available at <https://help.iowa.gov/>, (515) 281-5703 or 800-532-1174. TTY access is available at 800-735-2943.

Persistent problems, unresolved service concerns or requests for procurement of software and hardware shall be reported to IDA Technology Assistance & Support Lead Worker. In collaboration with the IT team, a recommendation will be made to the management team and moved forward if advisable.

Insubordination

Every employee's job is important, and all employees are expected to cooperate and follow the instructions of supervisors and other designated members of management.

Insubordination (intentional refusal to follow an authorized supervisor's reasonable orders or instructions) is prohibited unless such instructions are contrary to the Code of Iowa.

Insubordination may lead to disciplinary action.

Mail

United States Postal Service

Local mail and federal mail may be placed in the “mail” basket at the department reception desk prior to 8:15am or 11:30 am for delivery to the centralized building pickup and delivery. For preparation of outgoing mail or parcels, see Receptionist.

E-mail / Electronic Calendars

Email shall be used for business use only and it is the expectation of IDA that all correspondence reflects professionalism and courtesy and contains the appropriate logo with confidentiality clause. Employees are required to keep their electronic calendars current at all times.

Office Equipment and Tools

Many employees are issued office items, desk equipment or tools at the beginning of or during their employment with IDA. Office items/equipment and tools are to be used only to carry out job responsibilities. The loss of, or any damage to, such items should immediately be reported to the employee’s supervisor. All items are considered to be the property of the State and are to be returned to the employee’s supervisor upon employment separation from IDA.

Outside Employment Policy

Definition Outside employment, including self-employment, is any activity for consideration, either monetary or otherwise, engaged in by an employee of this department, either directly or indirectly, that is considered to be of an employment or business nature.

General Policy It shall be the general policy of the IDA to consider each request for outside employment on an individual, case-by-case basis, taking into account the job classification currently held, the duties and responsibilities performed by the employee, and the type of outside employment requested. An activity that may be permissible for one classification or position may be prohibited for another classification or position.

In making the determination, the department shall give consideration to, but is not limited to, the following:

- An activity determined to be inconsistent, incompatible, or in conflict with the employee's job duties and responsibilities.

- An activity which presents an apparent, potential, or actual conflict with the interests of the department, Department of Administrative Services rules, or union contracts.
- An activity which uses your position with the department to influence others to seek your services, or uses department-gained knowledge or information for private gain.
- An activity conducted through a family member, friend, or any other person that the employee is prohibited from doing directly and which is intended to circumvent this policy.
- An activity, or the hours to be devoted to such outside activity, which impairs the employee's availability, capacity, or efficiency in the performance of his or her official duties as a IDA employee.
- Requests for certain types of outside employment will be subject to special scrutiny, including, but not limited to:
 - An activity involving teaching or instruction in academic areas relating to taxes, accounting, and bookkeeping.

The following activities, among others, are clearly inconsistent, incompatible, and in conflict with the interests of the Department:

- Examples of activities relating to work or financial interest may include but are not limited to areas of tax preparation, collection, legal services, long-term care, Medicaid managed care, service provider for Older Americans Act services, accounting, substitute decision making.
- Unauthorized use of information that the IDA defines as confidential.
- Utilizing department data to compile solicitation lists.
- Soliciting outside business by holding yourself out as a representative of the department.
- Use of state time, facilities, equipment, or supplies for personal business.
- Performance of an act that may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by the employee or the department.

Filing Procedures Any employee who wishes to engage in outside employment as defined herein must file a "Request for Outside Employment" form with his or her immediate supervisor. In determining whether an application should be filed or whether employment falls within the definitions set forth in this policy, consideration should be given to whether the activity presents a potential conflict of interest with the department's mission and the time devoted to the outside activity. The form must be submitted to the appropriate supervisor at least five working days before planning to engage in the outside employment. A detailed description of the outside employment must accompany the application.

It shall be the responsibility of each employee to keep complete and accurate records of his or her outside employment activities for review, upon request, by the department.

For employees engaged in sales of goods or services, it shall be the responsibility of the employee to report to his or her supervisor any conflicts or potential conflicts of interest between assigned duties and their outside employment activities.

For example, an auditor assigned to perform an audit of a regular sales customer, should report such to his her supervisor so that appropriate reassignments can be made. The same would apply to office examinations by Revenue Examiners, and collection assignments by Revenue Agents.

Review Procedures Two levels of review, approval, or disapproval must occur prior to the employee being allowed to engage in outside employment. The employee's 1) immediate supervisor, and 2) Director shall indicate approval or disapproval of outside employment requests. Each request must be reviewed at all levels.

Two levels of review are required for purposes of developing consistency of approval or disapproval within the department. Employees shall be provided with department notification of approval or disapproval within five working days of the date of receipt of the request. In case of department disapproval, employees shall be provided, in writing, specific reasons for disapproval.

Maintenance and Follow Up One copy of the approved or disapproved application will be maintained by the employee's supervisor and one copy returned to the employee. Individual supervisors will maintain a file of all outside employment applications.

If an employee changes job classifications, duties, or responsibilities within the department, the employee must resubmit a request form and receive approval again before continuing with outside employment. If there is any change in the conditions (i.e., job duties or responsibilities) of the outside employment, the employee must resubmit a request form and receive approval before continuing with the outside employment. All approved applications will be reviewed on an annual basis.

Appeal An employee may, within five working days of receiving a final disapproval, appeal at the second step of the grievance procedure.

Personal Electronic Devices

Employees may carry and use personal electronics and cell phones while on duty. However, employees must not use these devices excessively or in a manner which disrupts their productivity, causes distraction for coworkers or compromises safety. Supervisors may, on a case-by-case basis, determine if the presence of a personal device is causing

unsafe work conditions, loss of productivity or a disruption in the workplace. In such cases, the supervisor may require the employee to put away the personal device, and may require the device no longer be brought to work.

Employees may not use personal electronic devices, personal email accounts or personal social media accounts to conduct state business.

Personal Property

If an employee brings personal property to be placed in their work area, IDA assumes no responsibility for loss of, or damage to, such property.

Post 16

Lucas State Office Building

Phone 281-3879

Post 16 provides security to the 167 acre Capitol Complex. Troopers are responsible for the security and safety of all employees and visitors to the Capitol Complex.

Printing

Department printers are for business use only. Contact the Acct Tech 2 in the Fiscal Unit if equipment in the copier room is not working properly.

Advance planning is critical and lengthy documents needing several copies should be sent to [OCIO Print Services](#) for printing or copying. The guideline would be documents of 5 or more pages in length needing 25 or more copies.

Personal use of the copy machine is permitted, while on personal time, at a rate of 10 cents per page. Copies made for members of the public will also be assessed 10 cents per page, plus the cost of staff time incurred in supervising, preparing and copying documents – as posted. Reimbursement to the Department must be made to the receptionist by check payable to the Iowa Department on Aging.

Public Records Requests

IDA takes seriously its commitment to follow the requirements of the open records law under Chapter 22 of the Iowa Code. The department's goal is to respond to all open records requests in a timely and appropriate manner.

Chapter 22 states every person has the right to examine and copy a public record or the information contained in a public record. Records deemed confidential pursuant to Chapter 22 shall not be released in response to a request.

When IDA employees receive an open records request, they should notify their supervisor. The supervisor will then forward the request to IDA's Executive Secretary.

Employees should read, understand, and comply with the DAS Open Records Policy - Requests for Examination of Public Records. This policy can be found at:

<https://das.iowa.gov/das-core/marketing-communications/open-records-policy>

Requests for access to a public record may be made in person, in writing or by telephone. A request for access to a public record shall be immediately directed to the supervisor who will in turn forward to the Executive Secretary and Director . The Department Director shall be responsible for implementing the requirements of public records' laws inside the department. Requests transmitted by mail shall be addressed to the Department Director at Iowa Department on Aging, 510 E 12th St. Des Moines, IA 50309. Requests by e-mail should include the term "Public Records' Request" in the subject field, and should be directed to the Department Director. Requests by telephone should be directed to the Executive Secretary at: (515) 725-3302. All public requests for the Office of the State Long-Term Care Ombudsman records shall be directed to the State Long-Term Care Ombudsman.

Persons who submit a mail, electronic, or oral request for public records should also provide their name, address, and telephone number in order to facilitate effective communication with this office regarding the request.

Requests for access to a public record shall identify the particular public record, to which access is requested, by name or description, in order to identify efficiently the desired record. The requestor's description should (1) specify the particular type of record sought; (2) specify the date; (3) specify the author and/or recipient of the record requested; (4) specify the particular records' median (letters, memoranda, reports, recordings, etc.) – the requestor shall specify if the request applies to a record stored in electronic form; and (5) provide any other pertinent information that will assist this office in locating the record requested.

Department personnel shall direct public record requests to the Executive Secretary for docketing and processing. Before a search is conducted, the department may contact the requestor if there are questions concerning the scope of the record request.

Upon receipt of a request for access to a public record, the department will promptly take all reasonable steps to preserve a public record while the request is pending.

Every public record that is gathered pursuant to a records' request will be examined for completeness in response to the request, and to determine whether the record is confidential.

Questions by the public regarding the scope of a records' search, or requests for an expanded search, should be submitted to the Department Director, or State Long-Term Care Ombudsman if applicable, in writing.

Fees

Fees for time spent retrieving an open record and/or supervising the public examination of an open record may be charged to the requestor of the record in an amount equal to the actual cost of time spent providing non-incidental retrieval and/or supervisory services, as provided under applicable law. Reimbursement to the Department must be made by check payable to the Iowa Department on Aging. Payment is given to the Department Executive Secretary.

The actual cost for non-incidental retrieval and/or supervisory services may vary according to the nature of the search that is specified by the requestor. However, non-incidental retrieval and/or supervisory fees performed by department staff, pursuant to a request for records that are accessible inside the department, will ordinarily be set at \$25.00 per hour. Fees for departmental records that are accessible only with the assistance of department of administrative services or state archives personnel will be based on the fee structure that is established by those agencies. Requestors are generally billed for fees after their request has been processed. However, if total fees are expected to exceed \$250.00, the department shall require payment in advance of processing.

The first three hours of examination and copying of records by department employees are provided at no cost. There will be a fee of \$25.00 per hour for examination and copy of records thereafter. The first 10 pages are provided at no cost. Additional copies will be furnished at .10 per copy.

Safety and Health

IDA is committed to improving the safety, health and productivity of its employees, and reducing injuries and illnesses. IDA managers strive to provide employees with the safest possible work environment and the knowledge necessary to safely carry out assigned job duties.

Safety is everyone's responsibility. Employees who observe unsafe conditions or an unsafe act in the workplace, must notify their supervisor. Employees are required to observe all safety, health and sanitation rules, including the use of proper protective equipment and

clothing while operating vehicles or equipment as directed by your supervisor or team lead. Unsafe or defective equipment must be reported immediately. Employees should report accidents or injuries, including traffic accidents, as soon as possible, even if no medical attention is required.

Employees are encouraged to actively participate in the agency's safety efforts. Involvement by all levels of the organization contributes to an effective health and safety program for the benefit of all employees, their families, and the public.

Solicitation and Sales of Products

IDA employees may wish to participate in solicitation and sales to their coworkers on behalf of non-state sponsored charities, non-profit organizations or for-profit sales (i.e. fundraisers). When participating in such events, employees should conduct themselves in a respectful manner, without disrupting the efficient operation of the workplace. All contributions and purchases must be on a voluntary basis.

Telephone Usage

The following outlines the IDA policy regarding use and assignment of state telephones and cellular/mobile telephones:

- Telephones are to be used primarily for the benefit of the Department in carrying out its mission.
- On occasion, personal calls may need to be made and received at the work site. Such calls must be kept to a minimum.
- If, in the judgment of the supervisor, an employee is using work time and state phones excessively to conduct personal business, the employee may be subject to disciplinary action.
- Employees will be charged any additional costs for personal use of the telephone, such as long distance calls and/or roaming charges.

Cell phones may be assigned to employees by the Division supervisors.

Telework

Telework allows an employee to work remotely under circumstances deemed appropriate by their supervisor. Usually, telecommuting is for tasks that can be performed readily while at an alternate location, such as: project-oriented tasks, tasks involving reading or processing, typing, and entering measurable information into the computer.

Supervisors and employees should refer to: [Telework Program](#) for the complete guidelines to participation in the Telework Program.

Timesheets and Reporting

Each employee is responsible for accurately completing and approving their electronic timesheet before the close of business at the end of the pay period. Completion and approval deadlines may be adjusted during holidays. Your Human Resources Associate will notify you when this occurs. Failure to complete and approve your electronic timesheet before the close of business at the end of the pay period may result in a delay in payment of wages for that pay period. It is recommended that employees update their timesheets prior to taking approved leave and immediately upon returning from sick leave.

In an employee's unplanned absence, the Human Resources Associate and supervisor will ensure completion of timesheets with the best information available. Retroactive corrections may be completed after the employee returns to work.

Training and Educational Reimbursement

IDA encourages employee education for self-improvement and to further skills related to work and may grant partial reimbursement of such educational expenses.

Educational reimbursements must be pre-approved by your supervisor. Employees interested in educational reimbursement should speak to their supervisor and their Human Resources Associate. For more information see Iowa Administrative Code 11-64.10 [Education financial assistance](#).

Staff members may request PDS training or outside seminars through their supervisor. When requesting training, review the actual conference/training offering(s) in relation to job responsibilities, the qualifications of the workshop presenters, the intensity or level of information provided (who is the target audience), etc. Explain in the request why the specific conference and workshops would be beneficial to the Department. The request must be in writing or via e-mail and must be submitted in advance and include:

1. The name and sponsor of the training
2. Whether it's an optional or required training/meeting; if required include by whom
3. The perceived value to applicant and to the Department
4. The cost of the training
5. The estimated cost of required travel, if applicable
6. The proposed payment source for the expenses (the Department, the Conference sponsors, the grant, etc.) and the amount of associated travel budget remaining for the year

7. The amount of paid time needed to attend the training – including travel time, and if applicable,
8. A plan for adjusting hours

The supervisor will then give the request due consideration.

Travel and Reimbursements

Fleet Services

It is the expectation that staff uses DAS Fleet Services vehicles for all travel. Contact the Receptionist to make your reservation for a fleet vehicle. Use the In State Travel Form to provide the date, time and location of your travel as well as your valid driver's license number. Travel using personal vehicles will not be reimbursed without prior approval from your supervisor. Employees shall obtain supervisory approval before incurring any expenses chargeable to the Department.

- For more information regarding Fleet Services and use of state vehicles, visit: <https://das.iowa.gov/procurement/fleet-services>
- See Iowa Administrative Code for [State Employee Driving Guidelines](#)
- For information regarding Travel Card use, please refer to [State Accounting Travel Card policy 210.101](#)

Travel Claims

Travel claims submitted for reimbursement must be submitted within 30 (thirty) calendar days from the date the travel occurred. If your expenses consist of mileage reimbursement within the Des Moines metro area only and expenses do not exceed \$50.00, expense claims may be submitted quarterly. Your travel claim should include the following:

- Brief description of purpose for travel
- Copy of travel route taken (MapQuest or something comparable) that aligns with the mileage requested. The entire address for both the starting and ending points must be used – not just the city. For multiple locations in one trip, there must be a copy of the travel route between each location.
- If the travel was a roundtrip and the mileage is doubled, it must specify “roundtrip”.
- For information regarding travel policy and procedures, please refer to [State Accounting Travel and Relocation](#).

In-State Travel

Staff shall use the [In-State travel form](#). This form includes the request for a vehicle from the state motor pool. All [DAS-SAE policies](#) shall be followed.

Official Domicile and Lunch Times

In accordance with current Department of Administrative Services Procedure number 210.105, the official domicile of field employees shall be designated by the administrative head of the state department. The Iowa Department on Aging's policy is that:

Field employee's designated official domicile is the county of their residence.

Reimbursement Eligibility for meals with overnight stay (times do not include normal commuting time) – Instate/Outstate

MEAL REIMBURSEMENT DURING TRAVEL			
TRIP	BREAKFAST	LUNCH	DINNER
First & Last Day of a Multi-Day Trip	Yes, if departure is prior to 6:00 am.	Yes, if departure is prior to 11:00 am or return is after 11:00 a.m.	Yes, if departure is prior to 5:00 pm or return is after 7:00 pm

Meal Purchase/Consumption (Lunch Times)

The Department on Aging does not restrict the *time of day* that a meal must be purchased or consumed as long as the employee is eligible for the meal and in travel status. (I.E. you can buy lunch at 8:30 am or 4:00 pm as long as all other criteria are met) Even though time of meal consumption does not matter, there are some general constraints that may limit an employee's meal purchase or consumption:

- Meal must be reimbursement eligible
- Purchase must occur while in the employee is in approved travel status
- Employee must have a receipt for the meal and only one receipt is allowed per eligible meal (Department of Administrative Services Procedure 210.102 as authorized by Executive Order Number Thirteen (2009))
- Purchases are limited to currently published DAS reimbursement rate(s).

Meal reimbursements are cumulative. This means that an employee can spend their per diem on as many meals as they are eligible for or all on one meal. The meals are subject to the limits set by the Department of Administrative Services (example B = \$5, L = \$8, D = \$15 or a daily cumulative total of \$28).

Out-of-State Travel

Staff shall work with appropriate administrative support for management approval of out-of-state travel and completion of the On Line Travel Authority. Funding source, registration form and agenda must be provided. All travel must be approved by management prior to travel arrangements. Administrative support shall assist with travel details including but not limited to registration fees, flight and hotel arrangements.

Travel Reimbursement

Division administrative support will assist with the proper filing for travel reimbursement. The *Travel Payment Form* shall be filled out with expenses itemized by date and category. State credit card use and funding source shall be noted. Attachments must include agenda of conference and all receipts attached to 8.5"x11" paper. Itemized original receipts for all expenses must be submitted. All expenses must be documented with date and city of purchase. For guidance regarding reimbursement, see Acct Tech 2

Use of State Property

IDA employees are expected to be good stewards of State resources, including the use of State property. The following actions are expected:

- Using State property (materials, supplies or equipment) in an appropriate manner.
- Using reasonable measures to protect IDA property from misuse or theft.
- Preventing theft of State or another employee's personal property while on state premises.
- Maintaining key security (no lending, borrowing or duplication of keys).
- Maintaining appropriate notices, signs, posters or similar material.
- Ensuring the security of State-owned property or leased sites.

Vacation

IDA will attempt to honor all vacation requests. Non-contract-covered employee vacation requests may be denied the use of vacation time based upon operational needs. Contract-covered employee vacation requests shall be governed by the provisions of the applicable collective bargaining agreements.

Supervisors (or a designee) will ensure there is no interruption of service and business provided by the Department to its customers when granting vacation leave requests.

[See *Departure from Normal Work Hours*](#)

Voicemail

Voicemail shall be checked frequently throughout the day, and messages returned promptly, within 24 hours as a guideline.

Leave greetings on your voicemail indicating your schedule and when you will return to the office. The staff member must leave back-up information with administrative support staff when gone for more than three days for the purpose of handling constituent correspondence.

Workers' Compensation

All employees shall promptly report potential safety and health hazards to their supervisor.

In cases of medical emergencies, call the Iowa State Patrol - Post 16 at 515-281-5608, regardless of whether the incident is work-related.

All accidents and injuries occurring at work or in the course of employment must be reported to the employee's supervisor as soon as possible, even if no medical attention is required. Any incidents which result in hospitalization or a fatality must be reported no more than eight hours after the incident occurrence.

The employee's supervisor will work with the employee to properly document all accidents and injuries. This may include preparing a First Report of Injury (FROI).

Supervisors will coordinate workers' compensation claims with the Human Resources Associate and the safety workers' compensation section.

For more information, refer to the State of Iowa Employee Handbook, Other Benefits section.

Work Hours and Breaks

The standard work schedule for most employees is forty (40) hours per work week. Employees may be permitted to use various options that permit them flexibility in scheduling work hours. Your supervisor will explain options available to you. For contract-covered employees, the administration of rest periods and meal periods varies, based upon the applicable collective bargaining agreement and management discretion. Employees cannot use breaks to make up for previously missed work. Employees may not take paid or unpaid breaks for the purposes of arriving late or leaving early from work.

[See *Departure from Normal Work Hours*](#)

Work Performance Standards

Employees are expected to perform their work properly and efficiently to successfully meet performance standards. Employees are expected to seek, accept and accurately complete assignments within deadlines and not neglect job duties and responsibilities. Employees shall not be inattentive to duties or engage in unauthorized personal business while on duty.

**Attachment T: Acknowledgement of Receipt of Iowa Office of the State Long-Term Care
Ombudsman Policy Manual**

(Go back to policy [Omb-17](#) or see next page for usable form)

Iowa Office of the State Long-Term Care Ombudsman

Acknowledgement Receipt

Of

Policy Manual

I, _____, acknowledge that I have received, read and will apply the Iowa Office of the State Long-Term Care Ombudsman Policy Manual dated _____. I have been directed to read this document and was offered an opportunity to ask questions about its contents. I am also aware that I am expected to read and be familiar with any updates to the information contained in this handbook.

Employee Name (printed)

Employee's signature

Date

Supervisor's Signature

Date

Place the original of this form in the employee's personnel file. Provide a copy to the employee.

Also, I have received, read and will apply the State of Iowa and Iowa Department on Aging employee handbooks and will abide by those policies.