

A

**SELF-EVALUATION
and
CONTINUOUS QUALITY IMPROVEMENT
TOOL**

FOR LOCAL LONG-TERM CARE OMBUDSMAN PROGRAMS

**Developed by
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November 2005

NATIONAL LONG-TERM CARE OMBUDSMAN RESOURCE CENTER

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This project is supported, in part, by a grant from the Administration on Aging, Grant No. 90AM2690

ACKNOWLEDGMENTS

We want to recognize and thank the following local long-term care ombudsmen who helped us to create this new tool for local ombudsman programs: Carol Combs (AZ), Sherry Culp (KY), Robert Graham (IL), Karen Hausrath (WA), Alana Keitman (MT), Debi Lee (NC), and Margaret Niederer (IL). Their insights and thoughtful suggestions were instrumental in shaping this tool in a way that will be useful to ombudsmen throughout the country. We could not have developed this self-evaluation without their first-hand experience and knowledge of local ombudsman work. Their hard work on this instrument is yet another reminder of the dedication and commitment of local ombudsmen who are truly on the front lines. Special thanks go to Carol, Debi and Karen for taking on the courageous task of piloting the tool! Many thanks must also be given to Sue Wheaton, Ombudsman Program Specialist with AoA, who provided valuable comments and feedback, and Lori Smetanka, NORC Director, who directed and guided the project from start to finish.

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ABOUT THE DOCUMENT

One of the many extraordinary characteristics of ombudsmen nationwide is their constant desire to improve the advocacy services they provide to residents of long-term care facilities. For years ombudsmen have wanted a tool to assess their own programs so they can identify both their strengths and the areas where they need to make changes. The self-evaluation tool found in this document stems from this ombudsman desire for excellence.

In 2002, the National Association of State Long-Term Care Ombudsman Programs (NASOP) held a retreat at which ombudsmen and others from around the country recommended the development of a tool to measure ombudsman program effectiveness. Following the retreat, the National Ombudsman Resource Center, working with ombudsman representatives, created two tools - one for state ombudsman programs and one for local programs. This document was supported by a grant, No.90AM2690, from the Administration on Aging, Department of Health and Human Services. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official Administration on Aging policy.

A Message from the U.S. Administration on Aging

PLEASE NOTE:

This document is for the Local Long-Term Care Ombudsman and other program representatives to use in identifying strengths and weaknesses in the local ombudsman program infrastructure and operations for program planning and development purposes. It is a comprehensive listing of all areas of ombudsman work; and few, if any, local programs will fully meet all of the indicators listed. Therefore, it should be used only to identify areas in which improvements (including increased resources) are needed, not to evaluate the program or the performance of individual ombudsmen.

Sue Wheaton
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A SELF-EVALUATION AND CONTINUOUS QUALITY IMPROVEMENT TOOL FOR LOCAL LONG-TERM CARE OMBUDSMAN PROGRAMS

OVERVIEW

The goal of this instrument is to provide Local Long-Term Care Ombudsmen (LO) with a tool for assessing their own local program. The instrument serves two purposes. First, it identifies the components and elements within that component (indicators) that must be present in order to have a strong, effective ombudsman program. These elements are considered to be exemplary practices that programs should strive to achieve. Second, the instrument allows the Local Long-Term Care Ombudsman to assess, using a rating scale from 1 to 5, whether each element is in place, and if so, how successfully and consistently the element is operationalized.

This self-evaluation tool is designed to give each Local Ombudsman knowledge about what his or her program is doing well and where it needs to be improved. There is no “passing score,” nor any “national average” since the rating results are not intended to be compared from one program to another. The tool’s objective is to provide constructive and useful information, and to guide Local Ombudsmen in managing and strengthening their programs.

Please direct feedback and experiences with this Tool to the National Ombudsman Resource Center.

DIRECTIONS

The tool consists of 13 global components: Program Access; Program Management; Complaint Handling; Education/Information and Assistance; Training; Systems Advocacy; Program Integrity; Conflict of Interest; Confidentiality; Legal Resources; Fiscal Resources; Relationships with Agencies/Entities/Individuals/Citizen Groups/Others; and Accountability. For each component, LOs can find the applicable Older Americans Act (OAA) provisions in the section entitled “OAA Mandates.” A copy of the OAA is provided in Appendix 1. In addition, LOs will find a listing of documents that support the importance of these components in Appendix 2.

Each of the components is a stand-alone section. Local Ombudsmen can evaluate all 13 components at once, or limit their evaluation to one or more components at a time. The components are all of equal weight and are not presented in any order of priority.

The components are evaluated through the indicators. Ratings for the indicators are on a scale from 1-5. Local Ombudsmen can interpret the rating scale in one of two ways. In the first approach:

- 1 = Never
- 2 = Seldom
- 3 = Sometimes
- 4 = Mostly
- 5 = Always

Local Ombudsmen who prefer more detailed definitions of the ratings, can interpret the ratings in the following manner:

- 1 = No aspects of this component are in place; or
We do not do this well at all; or
This outcome has not been achieved at all.
- 2 = Very few aspects of this component are in place; or
We rarely do this well; or
This outcome is rarely achieved throughout our program.
- 3 = Some aspects of this component are in place; or
We sometimes do this well; or
This outcome is sometimes achieved throughout our program.
- 4 = Many, but not all, elements of this component are in place; or
We do this well most of the time; or
We achieve this outcome most of the time throughout our program.
- 5 = All elements of this component are in place; or
We do this very well all the time; or
We consistently achieve this outcome.

Local Ombudsmen should select the number that best describes their program when rating an indicator for a particular component. In cases where the Local Ombudsman feels that the indicator as it applies to his or her program is better answered with a “yes” or “no,” circle “1” for “no” and “5” for “yes.”

Special Note: Not all ombudsman programs have “ombudsman assistants” – individuals who do not handle complaints, but who visit residents or do other work within the program. Local Ombudsmen who do not use ombudsman assistants, should put “N/A” (“Not Applicable”) for any indicator pertaining to ombudsman assistants.

A number of indicators are composed of several subparts. When this is the case, the Local Ombudsman should evaluate and rate the indicator as a whole (reflecting a general assessment of how the program addresses all the subparts). However, some programs may also wish to evaluate each subpart individually in order to gain a more accurate sense of how the local program is doing in a particular area. In that case, the Local Ombudsman should place the subpart rating on the line that is listed under “Score for subparts.”

The indicators are all of equal weight and are not presented in any order of priority.

There are indicators that fit into several components. When this is the case, the indicator has been placed in what has been determined to be its “primary” component. However, when the same indicator also applies to another component, it has been listed in the second component under “Additional points to consider.” In this way, Local Ombudsmen will only rate their program once for any one indicator, but are reminded that they need to think about the same indicator as it applies to other components. This underscores the interrelationship between components and the necessity of thinking “multi-dimensionally.”

At the end of each component, there are sections entitled “Notes/General Comments,” “Areas of Difficulty,” and “Plans for Improvement/Recommendations.” These sections are designed to help Local Ombudsmen analyze the aspects of their program that they can improve and develop a concrete plan for making those improvements.

WAYS IN WHICH THE TOOL CAN BE USED

There are a variety of ways in which Local Ombudsmen can work with this tool. Some possible approaches are listed below.

- The Local Ombudsman can complete the entire tool by him or herself for the local program.

- The Local Ombudsman can select one component at a time to assess and work on. Since each component is designed to be a “stand alone” section, the Local Ombudsman can choose to proceed slowly through the tool (perhaps focusing on only one component a quarter or every six months).
- The Local Ombudsman, LTCOs and any other member of the local program can work as a team to complete the entire tool or just one section at a time.
- A new Local Ombudsman can review the tool as a starting point in learning about the key dimensions of the ombudsman program.
- A new Local Ombudsman can work through the tool with his or her mentor.

There is no “right” or “wrong” way to work with the rating results. One approach might be to select a component and then target for improvement all the indicators within that component that are rated as a “1” or “2.” The program could then work to raise the ratings to at least a “3” for all indicators. Once that has been accomplished, the program could choose to select another component and repeat the process, or it could decide that it wanted to achieve a rating of at least “4” in all indicators before working on another component.

BENEFITS OF THE TOOL

Completing this self-evaluation tool can help the Local Ombudsman:

- ⇒ Develop an action plan tailored to address the particular needs of his/her local program
- ⇒ Set priorities for the local program
- ⇒ Establish benchmarks for the local program
- ⇒ Meet the requirements of the Older Americans Act
- ⇒ Identify ombudsman program best practices
- ⇒ Identify training needs
- ⇒ Gain a greater understanding of the ombudsman program if the Local Ombudsman is new

HELPFUL RESOURCES

Local Ombudsmen who have questions about how to use the tool or how to complete it and work with the results, can contact:
The National Long-Term Care Ombudsman Resource Center at: 202-332-2275 or ombudcenter@nccnhr.org.

DEFINITIONS

Immediate family: AoA has interpreted immediate family as spouse, parents, children, and siblings.

Long-term care facility: Any facility that meets the definition set forth by the Older Americans Act Section 102 (32). Specifically, the term “long-term care facility” means-

- (A) Any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a));
- (B) Any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));
- (C) For purposes of sections 307(a)(9) and 712, a board and care facility; and
- (D) Any other adult care home similar to a facility or institution described in subparagraphs (A) through (C).

Note:

- Under Section 102 (18) the term “board and care facility” means an institution regulated by a State pursuant to section 1616(e) of the Social Security Act.
- Assisted living facilities are included under Section 102 (32)(d) according to AoA policy interpretation.

Long-Term Care Ombudsman (also referred to as LTCO or ombudsman): An individual, paid or volunteer, who has (A) met training and any additional requirements set by the State Long-Term Care Ombudsman and (B) been designated by the State Long-Term Care Ombudsman to carry out the duties identified in the Older Americans Act, Section 712(a)(5)(B).

Long-Term Care Ombudsman Assistant (also referred to as ombudsman assistant): An individual, paid or volunteer, who carries out one or more duties identified in the Older Americans Act, Section 712(a)(5)(B), but who does not handle complaints. (In some states these individuals are referred to as “friendly visitors.”)

Local Long-Term Care Ombudsman: (also referred to as LO): The LTCO who directs the local program. (In some states these individuals are referred to as District Ombudsmen, Ombudsman Coordinators or Regional Ombudsmen.)

Response time: The amount of time between the receipt of a case and the first action taken to investigate the case, i.e. when the first visit, phone call, etc. is made.

State Long-Term Care Ombudsman (also referred to as SLTCO or State Ombudsman): The individual who heads up the Office of the State Long-Term Care Ombudsman and who has the duties identified in the Older Americans Act, Section 712(a)(3) or his/her designee when permitted under state law, rule or policy.

I. PROGRAM ACCESS

OLDER AMERICANS ACT (OAA) MANDATE – OAA § 712 (a)(3)(C)(D); 712(a)(5)(B);(ii); 712(b)(1)(A)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
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A. Contacting the Program

1. There is an easy, affordable, and confidential way for people to contact the local long-term care ombudsman program (LTCOP). This includes a dedicated line for the program and an 800 number for both in-state and out-of-state calls.	1	2	3	4	5
2. There is a system for answering phone calls that: (Score for subparts)	1	2	3	4	5
<ul style="list-style-type: none"> • Identifies the program _____ • Is easy to use _____ • Is understandable _____ • Connects the caller to the right person _____ • Accommodates TDD calls _____ • Is in appropriate languages _____ 					
3. When the ombudsman is unavailable during regular business hours, the answering system: (Score for subparts)	1	2	3	4	5
<ul style="list-style-type: none"> • Allows the caller to leave a message _____ • Provides a number to call if immediate ombudsman assistance is needed _____ • Provides the number for the state licensing and certification agency _____ 					

4. At night, on weekends, and on holidays, the answering system allows the caller to leave a message and provides referral information that includes, at a minimum, the number for the state licensing and certification agency.	1	2	3	4	5
5. Messages are checked daily during work days.	1	2	3	4	5
6. Callers receive a prompt, timely response to their call within a time frame established by policies and procedures set by the office of the state ombudsman. (This does not mean that the program must respond to calls 24 hours a day, for instance through the use of a beeper.) OR If no policies and procedures have been set by the office of the state ombudsman: Callers receive a prompt, timely response to their call within a time frame established by the local program. The local program notifies the SLTCO of its time frame.	1	2	3	4	5
7. The local program has a website or a section on a host agency site that is informative, up-to-date, easy to use and tells viewers how to contact the program.	1	2	3	4	5
8. The State Ombudsman is notified of any change in local ombudsman program contact information.	1	2	3	4	5

B. Program Materials

9. The local program uses the ombudsman program brochure that has been developed by the office of the state ombudsman and that includes specific information on contacting the local program. OR If no brochure has been developed by the office of the state ombudsman: The local program has brochures explaining the program that: (Score for subparts) <ul style="list-style-type: none"> • Are easy to read _____ • Use language that is understandable _____ • Are available in nursing homes, among referral sources, and in the community (AAAs, senior centers, public libraries, churches, village halls, medical equipment and supply stores, etc.) _____ • Are up-to-date with accurate ombudsman contact information _____ 	1	2	3	4	5
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<ul style="list-style-type: none"> • Are in appropriate languages _____ • Are in accessible formats (e.g. Braille, audiotape) _____ 	
<p>10. The local program uses the ombudsman program poster that has been developed by the office of the state ombudsman and that includes specific information on contacting the local program. OR</p> <p>If no poster has been developed by the office of the state ombudsman: The local program has posters that: (Score for subparts)</p> <ul style="list-style-type: none"> • Are formatted in a way that is easy to read _____ • Use language that is understandable _____ • Convey the meaning of what the ombudsman is _____ • Are widely disseminated in the community (e.g. AAAs, senior centers, public libraries, hospitals, churches, village halls, medical equipment and supply stores, etc.) _____ • Are posted in every facility _____ • Are up-to-date with accurate ombudsman information _____ 	<p>1 2 3 4 5</p>
<p>11. The local program uses the ombudsman program logo developed by the office of the state ombudsman. OR</p> <p>If no logo has been developed by the office of the state ombudsman: The local program has a logo that specifically identifies the ombudsman program.</p>	<p>1 2 3 4 5</p>
<p>12. The local program uses stationery developed by the office of the state ombudsman that includes the program logo and contact information for the local program. OR</p> <p>If the office of the state ombudsman has developed no stationery: The local program has stationery that includes the program logo, specifically identifies the ombudsman program, and includes contact information for the local program.</p>	<p>1 2 3 4 5</p>
<p>13. The LO, LTCOs and ombudsman assistants within the local program wear large print name tags while visiting facilities that identify them as being with the ombudsman program.</p>	<p>1 2 3 4 5</p>
<p>14. The LO, LTCOs and ombudsman assistants have large print business cards that identify them as being with the local ombudsman program.</p>	<p>1 2 3 4 5</p>

C. Knowledge of the Ombudsman Program by Others

15. Residents/families/the public within the local program's service area know about the ombudsman program, what it does and how to contact the program.	1	2	3	4	5
16. Long-term care facility administrators and key long-term care facility staff within the local program's service area understand the role of the ombudsman program and make appropriate referrals and inquiries to the program.	1	2	3	4	5
17. Local referral systems/networks know about and understand the program and its role, and make appropriate referrals. (Systems/networks include the area agency on aging, senior centers, local chapters of organizations such as AARP and the Alzheimer's Association, hospital discharge planners, pre-admission screeners, etc.).	1	2	3	4	5
18. Regional licensing and certification agency staff, including the complaint handling unit and surveyors, understand the program, its scope and its role, and make appropriate referrals.	1	2	3	4	5

D. Direct Resident Access to the Program

19. All long-term care facilities in the local program's service area are visited at a frequency that meets or exceeds the minimum established by policies and procedures set by the office of the state ombudsman. (NOTE: a visit includes contact with residents, not just with the administrator or facility staff, and involves listening to and observing residents). OR If no policies and procedures have been set by the office of the state ombudsman: 100% of all long-term care facilities in the local program's service area are visited at least quarterly. (NOTE: a visit includes contact with residents, not just with the administrator or facility staff, and involves listening to and observing residents).	1	2	3	4	5
20. The local program's visitation rate complies with policies and procedures set by the office of the state ombudsman. OR If no policies have been set by the office of the state ombudsman: The local program's visitation rate takes into consideration at least the following factors: any problems present in the facility, the facility size and the characteristics of the residents in the facility. The local program notifies the SLTCO of its visitation rate policies and procedures.	1	2	3	4	5

21. Visits to residents are unannounced and at varied times that take into consideration the nature of any concerns/problems that are or might be present.	1	2	3	4	5
22. Visits are conducted in a manner that promotes the rights of residents and ensures privacy, dignity and respect.	1	2	3	4	5
23. During a visit all activities required by policies and procedures set by the office of the state ombudsman are completed (e.g. speaking with resident council president, talking with family members, checking ombudsman poster, etc.). OR If there are no policies and procedures set by the office of the state ombudsman: During a visit all activities required by policies and procedures set by the local program are completed (e.g. speaking with resident council president, talking with family members, checking ombudsman poster, etc.). The local program notifies the SLTCO of these policies and procedures.	1	2	3	4	5
24. Documentation of each visit is completed accurately and submitted to the local program in a timely manner.	1	2	3	4	5
25. Concerns that are discovered during a visit are reported timely to the local program if the individual conducting the visit does not have the authority to handle the complaint.	1	2	3	4	5
26. The LO, LTCOs and ombudsman assistants have appropriate access to long-term care facilities and residents within the program's service area.	1	2	3	4	5

E. Outreach and Education About the Program

27. The local program solicits invitations to speak to resident/family councils about the ombudsman program.	1	2	3	4	5
28. The local program uses multiple venues for promoting and educating the public about the program (television, radio, local newspapers, letters to the editor, ombudsman visits, presentations, websites, booths at state/county fairs, etc.).	1	2	3	4	5
29. The local program maintains and cultivates media contacts in print and radio/tv.	1	2	3	4	5
30. The ombudsman program trains all LTCOs and ombudsman assistants to promote the program.	1	2	3	4	5
31. The LO, LTCOs and ombudsman assistants within the local program explain the program in a uniform manner and provide the same consistent description of the program.	1	2	3	4	5
32. The local program has a one-page fact sheet presenting its accomplishments that is updated yearly and widely distributed.	1	2	3	4	5
33. The local program, in coordination with the SLTCO, educates state legislators and federal Congressional representatives about the program and how it can help its constituents. OR	1	2	3	4	5

<p>If educating state and federal legislators is not an activity of the office of the state ombudsman: The local program educates state legislators and federal Congressional representatives about the program and how it can help constituents. The local program notifies the STLCO of its actions.</p>	
<p>34. The local program, in coordination with the SLTCO, educates the local media about the program and long-term care issues (e.g. by writing letters to the editor, making TV and radio appearances, holding press conferences, preparing press releases, etc.). OR</p> <p>If educating the media is not an activity of the office of the state ombudsman: The local program educates the local media about the program and long-term care issues (e.g. by writing letters to the editor, making tv and radio appearances, holding press conferences, preparing press releases, etc.). The local program notifies the STLCO of its actions.</p>	<p>1 2 3 4 5</p>
<p>35. The agency director and supervisory staff of any designated local ombudsman program are informed about the ombudsman program, including what it does and its accomplishments.</p>	<p>1 2 3 4 5</p>
<p>36. If the designated local ombudsman program is not housed within an area agency on aging: The director of the local area agency on aging and supervisory staff are informed about the ombudsman program, including what it does and its accomplishments.</p>	<p>1 2 3 4 5</p>
<p>37. The local program establishes itself as a resource on long-term care issues with local community agencies, local government leaders, legislators, the media, the public, and others.</p>	<p>1 2 3 4 5</p>
<p>38. The program initiates opportunities in the community to educate others about its services (e.g. at trainings, presentations, or discussions organized by other organizations/agencies; at service clubs or meetings of religious organizations, etc.).</p>	<p>1 2 3 4 5</p>

F. Source of Complaints

<p>39. Complaints are received from a variety of sources including: residents, families/friends of residents, non-relative guardian/legal representatives, governmental and non-governmental agencies, facility staff and ombudsman observation.</p>	<p>1 2 3 4 5</p>
<p>40. The majority of complaints are received from residents and families/friends of residents.</p>	<p>1 2 3 4 5</p>

TOTAL FOR *PROGRAM ACCESS*: (1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about Program Access:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

II. PROGRAM MANAGEMENT

OLDER AMERICANS ACT (OAA) MANDATE – OAA § 712 (a)(1)(2)(3); 712(a)(5)(A)(B)(C)(D); 712(b); 712(c); 712(d); 712(f)(4); 712(h)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
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A. General

<p>1. The mission and vision of the local program are the same as the mission and vision of the state program. OR</p> <p>If there are no defined mission and vision for the state program: The local program has a mission and vision that are well-defined and in accordance with the OAA. The local program notifies the SLTCO of its mission and vision.</p>	1	2	3	4	5
<p>2. Each person in the local program can clearly articulate the program’s mission and vision.</p>	1	2	3	4	5
<p>3. The focus of all local ombudsman program efforts is on how program actions will benefit residents.</p>	1	2	3	4	5
<p>4. The LTCOs and ombudsman assistants have a clear understanding of the structure of the statewide and local program; the duties and responsibilities at all levels of the program; and where they fit in the structure.</p>	1	2	3	4	5
<p>5. The local program uses the job descriptions for the LO, LTCOs, ombudsman assistants, program administrative staff and any other individuals working with the ombudsman program that have been developed by the office of the state ombudsman. OR</p> <p>If no job descriptions have been developed by the office of the state ombudsman: There are job descriptions for the LO, LTCOs, ombudsman assistants, program administrative staff and any other individuals working with the local ombudsman program that incorporate and do not conflict with the duties mandated by the OAA. The</p>	1	2	3	4	5

local program shares these job descriptions with the SLTCO.					
6. The LO is directly responsible to the SLTCO for performance of all ombudsman-related duties.	1	2	3	4	5
7. LTCOs within the local program are directly responsible to the LO for the performance of all ombudsman-related duties.	1	2	3	4	5
8. The standard for visitation set by the local ombudsman program meets or exceeds that set by the office of the state ombudsman. OR If no visitation standard has been set by the office of the state ombudsman: The standard for visitation set by the local ombudsman program requires that 100% of all long-term care facilities are visited at least quarterly. The local program notifies the SLTCO of its visitation standard.	1	2	3	4	5
9. The local ombudsman program uses the written forms (e.g, case record forms, etc.) developed by the office of the state ombudsman. OR If no written forms have been developed by the office of the state ombudsman: The local program has developed written forms (e.g. case record forms, etc.) that are used by all those working within the local program. There are clear instructions on how these forms are to be completed. The local program shares these forms with the SLTCO.	1	2	3	4	5
10. The local program is unified, cohesive and integrated.	1	2	3	4	5
11. The LO, LTCOs, and ombudsman assistants in the local program view themselves as part of a statewide program which functions as a team.	1	2	3	4	5
12. The local ombudsman program is in touch with and communicates with other local ombudsman programs throughout the state.	1	2	3	4	5
13. The LO keeps the SLTCO apprised of any issues or problems that may need SLTCO attention or that may impact or reflect upon the statewide program.	1	2	3	4	5
14. There is strong two-way communication between the LO and the LTCOs, ombudsman assistants and other individuals working within the local program.	1	2	3	4	5
15. The local program receives timely assistance, support and resources from the SLTCO.	1	2	3	4	5
16. The local program responds in a timely way to requests from the SLTCO.	1	2	3	4	5
17. LTCOs within the local program physically come together (for meetings, trainings, networking, etc.) at least quarterly.	1	2	3	4	5

B. Program Evaluation

18. There is regular, periodic evaluation of the local program, that includes, at a minimum, the use of the local ombudsman program self-evaluation tool developed by the National Ombudsman Resource Center.	1	2	3	4	5
19. The evaluation process includes input from LTCOs, ombudsman assistants and other individuals working with the local program.	1	2	3	4	5
20. The evaluation process includes customer satisfaction surveys.	1	2	3	4	5
21. The evaluation process includes input from a range of program stakeholders (e.g. residents, families, the area agency on aging, etc.).	1	2	3	4	5

Additional Points to Consider:

Obtaining feedback on program performance from advisory board – See XIII ,#1.

C. Action Plan

22. The local ombudsman program has at least a biennial action plan, approved by the SLTCO if approval is required, that includes specific, measurable and scheduled objectives for each area of ombudsman program function required by the OAA.	1	2	3	4	5
23. The data obtained from program evaluation are used to develop the action plan.	1	2	3	4	5
24. There is an established procedure for determining whether the objectives for the local ombudsman program plan have been achieved and what measures are taken when the objectives are not met.	1	2	3	4	5

D. Policies and Procedures

25. The local program implements the policies and procedures set by the office of the state ombudsman. OR If there are no policies and procedures set by the office of the state ombudsman: The local program develops and implements written policies and procedures that are in compliance with the OAA and cover at least the following topics:	1	2	3	4	5
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<ul style="list-style-type: none"> • Reporting abuse and neglect _____ • Conflict of interest, including the points identified in VIII, A. & B. _____ • Willful interference _____ • Approving and withdrawing approval of ombudsman assistants _____ • Roles and responsibilities of individuals within the local program _____ • Complaint processing, including: a) the points identified in III, B. #3 (complaint prioritization and response times); b) obtaining and documenting the resident's or the resident's representative's consent to handle a complaint; c) assessing the credibility of information from residents and families/ determining the type and amount of evidence needed in complaint handling/determining the validity of a complaint; d) when and how a complaint is referred to another agency for handling; and e) closing cases (e.g. how long to hold a case open) _____ • Confidentiality and disclosure, including the points identified in IX. _____ • Ombudsman access to resident records, including procedures for accessing records if the resident is incapable of consent and has no legal representative or when the legal representative is acting in a way that is negatively impacting the resident _____ • Ombudsman program duties other than complaint handling (e.g. visitation) _____ • Volunteers, including recruitment, training and retention _____ • Evaluating the local ombudsman program _____ • Local ombudsman program records, including the retention and destruction of any confidential records _____ • Responding to and addressing dissatisfaction or complaints regarding the program or any individual in the program _____ <p>The local program shares these policies and procedures with the SLTCO.</p>	(Score for subparts)
26. Policies and procedures specific to an individual local program are periodically reviewed and updated as necessary.	1 2 3 4 5

E. Role and Position of the Local Ombudsman (LO)

27. The LO is full-time and has no non-ombudsman job responsibilities.	1	2	3	4	5
28. The LO adheres to its state <i>Code of Ethics for Ombudsmen</i> . OR If no state code exists: The LO adheres to the <i>Code of Ethics for Ombudsmen</i> developed by the National Association of Local Long Term Care Ombudsmen (NALLTCO), if such a code exists, or to the <i>Code of Ethics for Ombudsmen</i> developed by the National Association of State Long Term Care Ombudsman Programs (NASOP) in the absence of a NALLTCO <i>Code of Ethics</i> .	1	2	3	4	5
29. The LO directs the local ombudsman program.	1	2	3	4	5
30. The LO has full authority and accountability for all aspects of the LTCOP at the local program level.	1	2	3	4	5
31. The LO is responsible for leadership within the local program.	1	2	3	4	5
32. The LO ensures that the local program follows policies, procedures and/or standards set by the office of the state ombudsman. OR If there are no policies, procedures and/or standards set by the office of the state ombudsman: The LO sets and maintains local program policies, procedures, and standards.	1	2	3	4	5
33. The LO manages and makes decisions about the use of the local program's fiscal resources in accordance with any contracts that apply to the program.	1	2	3	4	5
34. The LO supervises the ombudsman-related work of LTCOs (e.g. complaint handling, other ombudsman activities). This does not necessarily include personnel management functions.	1	2	3	4	5
35. The LO provides LTCOs and ombudsman assistants with support and consistent and timely technical assistance.	1	2	3	4	5
36. The LO guides day-to-day local program operations.	1	2	3	4	5
37. The LO ensures that LTCOs and ombudsman assistants within the local program receive all required training.	1	2	3	4	5
38. The LO attends all required meetings and trainings held by the SLTCO.	1	2	3	4	5
39. The LO participates in the hiring and firing of any paid LTCO within the local program.	1	2	3	4	5
40. The LO provides the SLTCO with information regarding the performance of each LTCO in the local program as part of the ongoing designation process.	1	2	3	4	5

41. The LO directs local advocacy efforts in coordination with the SLTCO. OR If there are no advocacy efforts coordinated by the office of the state ombudsman: The LO directs local advocacy efforts. The LO notifies the SLTCO of its efforts.	1	2	3	4	5
42. The LO maintains the confidentiality of local program data and information.	1	2	3	4	5
43. The LO oversees the reporting system for the local ombudsman program.	1	2	3	4	5
44. The LO maintains local ombudsman program case records in accordance with policies and procedures set by the office of the state ombudsman. OR If no such policies or procedures have been established: The LO maintains local ombudsman program case records in accordance with policies and procedures set by the local program. The local program notifies the SLTCO of these policies and procedures.	1	2	3	4	5
45. The LO coordinates with local advocacy organizations involved in long-term care issues.	1	2	3	4	5
46. The LO refers any decisions regarding the disclosure of ombudsman program records to the SLTCO.	1	2	3	4	5
47. The LO provides technical assistance, consultation, and information related to the operation of the local ombudsman program to LTCOs, ombudsman assistants and others.	1	2	3	4	5
48. The LO coordinates LTCO services with other agencies/entities/individuals/citizens' groups/others within the local program's service area.	1	2	3	4	5
49. The LO provides information and assistance regarding long-term care issues and the LTCOP to the general public, residents, community organizations, and other agencies.	1	2	3	4	5
50. The LO fosters the growth and development of LTCOs so they can assume leadership roles within the local program.	1	2	3	4	5

F. Local Ombudsman Programs (Entities)

51. The local entity is a non-profit, tax-exempt organization.	1	2	3	4	5
52. The local entity provides at least the following services: Complaint handling Education/information and assistance Resident visits	1	2	3	4	5
(Score for subparts)					

Systems advocacy					
53. The agency housing the local program provides the support, technology, space, privacy, and resources to carry out all ombudsman program duties (e.g. computers, phones, desks, offices, reimbursement for operational expenses such as mileage, professional development, training materials, brochures, etc.).	1	2	3	4	5
54. Any operational changes to the local program are approved by the SLTCO to ensure compliance with the OAA.	1	2	3	4	5
55. The contract for delivery of local ombudsman program services by the local entity is reviewed by the SLTCO.	1	2	3	4	5

Additional Points to Consider:

Conflict of interest re: head of an entity – See VIII, B. #4.

Conflict of interest re: board members of agency housing the local ombudsman entity – See VIII, B. #9.

Development of action plan – See II, C.

Confidentiality of records, files – See IX, #6 - #9.

Minimal staffing levels – See II, G. #4.

Access to program – See I.

Submission of data to SLTCO – See II, I, #125.

Advisory board for local entity – See XIII.

Evaluation of local entity – See II, B.

G. Staffing

1. General

56. There is a diversity of staff and volunteers that takes into account the cultural diversity of the residents in the local program's service area.	1	2	3	4	5
57. Any one working with the local ombudsman program is free of unremedied conflict of interest as defined by the OAA, any policies and procedures set by the office of the state ombudsman and the points laid out in VIII, B. #7.	1	2	3	4	5
58. Any one working with the local ombudsman program adheres to ombudsman confidentiality requirements in accordance with the OAA and any policies and procedures set by the office of the state ombudsman or	1	2	3	4	5

the local program if there are no state policies and procedures.	
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2. Long-Term Care Ombudsmen (LTCO)

59. The role and parameters of the LTCO, including what the LTCO does and does not do, are in accordance with policies and procedures established by the office of the state ombudsman. OR If there are no policies and procedures established by the office of the state ombudsman: The role and parameters of the LTCO, including what the LTCO does and does not do, are well-defined and in accordance with the OAA. The local program notifies the SLTCO of the role and parameters of its LTCOs.	1	2	3	4	5
60. LTCOs in the local program meet the established minimum qualifications established by the office of the state ombudsman. OR If there are no minimum qualifications established by the office of the state ombudsman: LTCOs in the local program meet minimum qualifications that are in compliance with the OAA and set by the local program. The local program notifies the SLTCO of its minimum qualifications for LTCOs.	1	2	3	4	5
61. LTCOs within the local program adhere to the state <i>Code of Ethics for Ombudsmen</i> . OR If no state code exists: The LTCOs adhere to the <i>Code of Ethics for Ombudsmen</i> developed by the National Association of Local Long Term Care Ombudsmen (NALLTCO), if such a code exists, or to the <i>Code of Ethics for Ombudsmen</i> developed by the National Association of State Long Term Care Ombudsman Programs (NASOP) in the absence of a NALLTCO <i>Code of Ethics</i> .	1	2	3	4	5
62. LTCOs possess characteristics of a good advocate (e.g. commitment, communications skills, persuasion skills, analytical abilities).	1	2	3	4	5
63. LTCOs are knowledgeable about long-term care residents, long-term care facilities and their management, long-term care services, and the federal and state laws/regulations governing long-term care facilities and related issues.	1	2	3	4	5
64. The performance of the LO and each LTCO in the local program is evaluated on a regular, periodic basis.	1	2	3	4	5
65. LO and LTCO performance is evaluated using a tool developed by the National Long Term Care Ombudsman Resource Center, if such a tool exists.	1	2	3	4	5
66. The LO and all LTCOs in the local program have some type of formal identification (e.g. a photo id or card) provided by the office of the state ombudsman. OR	1	2	3	4	5

If no identification is provided by the office of the state ombudsman: The LO and all LTCOs in the local program have some type of formal identification (e.g. a photo id or card) provided to them by the local program. The SLTCO is informed about the nature of the identification.					
67. The LO assures that any LTCO whose designation is revoked by the SLTCO has information about the state appeal procedure, if such a procedure exists.	1	2	3	4	5
68. Long-term care facility administration in the service area is notified when the LO or a LTCO is designated or de-designated.	1	2	3	4	5
69. LTCOs in the local program attend all required meetings and trainings held by the LO and/or the SLTCO.	1	2	3	4	5

Additional Points to Consider:

Conflict of interest – See VIII, B. #7.

Training requirements – See V, B. #8, #10, #11, #13, #15, #18 - #20

3. Ombudsman Assistants

70. All ombudsman assistants in the local program who visit with residents in long-term care facilities meet requirements set by the SLTCO and are approved by the SLTCO. OR If the SLTCO does not set requirements for ombudsman assistants: All ombudsman assistants in the local program who visit with residents in long-term care facilities meet requirements set by the LO. The local program notifies the SLTCO of these requirements.	1	2	3	4	5
71. Ombudsman assistants who do not visit residents meet all requirements set by the LO and are approved by the LO.	1	2	3	4	5
72. There is a clear process for approving and withdrawing the approval of any ombudsman assistant.	1	2	3	4	5
73. Long-term care facility administration is notified when an ombudsman assistant who visits residents in its facility is approved or when approval is withdrawn.	1	2	3	4	5
74. The performance of each ombudsman assistant in the local program is evaluated on a regular, periodic basis.	1	2	3	4	5

Additional Points to Consider:

Written policies/procedures for the approval/withdrawal of approval of an ombudsman assistant – See II, D. #25.

Conflict of interest – See VIII, B. #7

Training requirements – See V, B, #21 - #24; V.C. # 35 - #38

4. Staffing Levels

75. There is adequate staff to carry out all local ombudsman program functions defined by the OAA.	1	2	3	4	5
76. The local ombudsman program has a minimum staffing ratio of 1 LTCO FTE to 2,000 beds. This ratio includes only those individuals within the program who investigate complaints.	1	2	3	4	5
77. The local program has at least one staff person who works full-time as a LTCO (this can be the LO).	1	2	3	4	5
78. The local ombudsman program has a minimum staffing ratio of 1 FTE volunteer coordinator to 20 volunteers.	1	2	3	4	5
79. There is a back-up system in place to provide ombudsman services when the LTCO is unavailable due to sickness, extended leave, vacation, etc.	1	2	3	4	5
80. Salaries and benefits are adequate to attract and retain qualified staff.	1	2	3	4	5
81. Salaries include periodic increases based on performance, cost of living and merit.	1	2	3	4	5
82. The local program assesses turnover rates of both paid staff and volunteers and makes adjustments to improve retention.	1	2	3	4	5

H. Volunteer Management

1. General

83. The local program has a volunteer program in place that includes volunteers who handle complaints.	1	2	3	4	5
84. The local program uses volunteers in a variety of different capacities.	1	2	3	4	5
85. The role of the volunteer is clearly defined (including the types of cases volunteers handle and don't handled) and in accordance with any applicable policies and procedures set by the office of the state ombudsman.	1	2	3	4	5
86. The expectations for the volunteer are clearly outlined (e.g. attendance at meetings, trainings, frequency of resident visitations, etc.).	1	2	3	4	5

87. Volunteers receive clear information about what they can expect from the volunteer coordinator/supervisor and other program staff.	1	2	3	4	5
88. Volunteers are matched with jobs that correspond to their skills, interests and abilities.	1	2	3	4	5
89. Responsibility for and supervision of volunteers is controlled by the local program, in coordination with the SLTCO.	1	2	3	4	5
90. Clear policies and procedures for the volunteer program have been developed and are in accordance with the OAA and any applicable policies and procedures set by the office of the state ombudsman.	1	2	3	4	5
91. All the necessary forms for the volunteer program have been created (application, conflict of interest screen, etc.).	1	2	3	4	5
92. Volunteers who visit in facilities have name badges or another type of formal identification.	1	2	3	4	5
93. The volunteer program is evaluated on a periodic, regular basis, and the evaluation includes input from volunteers.	1	2	3	4	5
94. Volunteers who handle complaints receive the same training, rights and privileges as paid ombudsmen.	1	2	3	4	5

2. Recruitment

95. There is a systematic process for recruiting volunteers.	1	2	3	4	5
96. Individuals who have expressed interest in becoming a volunteer receive a response that is prompt enough to maintain their interest in volunteering.	1	2	3	4	5
97. The recruitment process taps into groups and organizations with which the program and volunteers already have personal and professional connections (e.g. AARP, churches).	1	2	3	4	5
98. The criteria for selecting volunteers are well-defined.	1	2	3	4	5

3. Training

99. Initial training for volunteers is held in a timely manner after recruitment. (“Timely” means that training is held before potential volunteers lose interest.)	1	2	3	4	5
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Additional Points to Consider:

Initial training for volunteers who are LTCOs – See V, B. #8.

Ongoing training for volunteers who are LTCOs – See V, C. #25 - #27, #30, #32

Ongoing training for volunteers who are ombudsman assistants – See V,C. #35 - #38

4. Supervision and Support

100. There is a well-defined structure in place for the supervision of volunteers.	1	2	3	4	5
101. The volunteer supervisor/coordinator of a local ombudsman program is a LTCO or has served as a LTCO for at least 2 years.	1	2	3	4	5
102. The volunteer coordinator/supervisor is strongly supportive of the use of volunteers in the ombudsman program and respectful of the volunteer role.	1	2	3	4	5
103. Volunteers receive support, assistance, and guidance in a timely manner.	1	2	3	4	5
104. There is a system for checking in with volunteers on a regular basis to see how they are doing.	1	2	3	4	5
105. Volunteers have the opportunity to network with other volunteers on a regular basis.	1	2	3	4	5
106. The volunteer supervisor/coordinator, SLTCO or experienced LTCO accompanies the volunteer on a facility visit at least once a year.	1	2	3	4	5
107. The performance of every volunteer is evaluated on a regular basis.	1	2	3	4	5

Additional Points to Consider:

Ratio of FTE LTCO to volunteers – See II, G. #78.

Confidentiality requirements – See IX.

5. Retention

108. The local program has identified the reasons why its volunteers volunteer.	1	2	3	4	5
109. The local program, with assistance from the office of the state ombudsman, keeps its volunteers motivated.	1	2	3	4	5
110. The local program maintains and routinely analyzes records tracking volunteer retention rates.	1	2	3	4	5

6. Recognition

111. Volunteers are recognized and honored publicly on a regular, periodic basis.	1	2	3	4	5
112. Volunteers are valued by paid staff and viewed as a critical part of the ombudsman team.	1	2	3	4	5

7. Treatment of Staff

113. All individuals working with the local ombudsman program (both paid and volunteer) treat each other with dignity and respect.	1	2	3	4	5
114. All individuals working with the local ombudsman program (both paid and volunteer) feel valued, important, empowered and part of a team.	1	2	3	4	5
115. All individuals working with the local ombudsman program (both paid and volunteer) have input into ombudsman program policy, training and decisions affecting the program.	1	2	3	4	5
116. All individuals working with the local ombudsman program (both paid and volunteer) feel comfortable voicing concerns, grievances and problems.	1	2	3	4	5

I. Information Management

117. The local program uses the reporting forms and software programs that are required by the office of the state ombudsman and based on the National Ombudsman Reporting System (NORS) coding system. OR If the office of the state ombudsman does not require specific reporting forms or software: The local program uses reporting forms and software programs that are based on the NORS coding system.	1	2	3	4	5
118. All individuals who document complaints receive the NORS training required in V, B. #8.	1	2	3	4	5
119. Each local program has a copy of the Definitions and Instructions for completing the State Annual Ombudsman Report to the Administration on Aging (known as the NORS report).	1	2	3	4	5
120. The data collected by the local program are complete, reliable, consistent and easy to use.	1	2	3	4	5
121. The local program has adequate software and hardware to handle its data system.	1	2	3	4	5
122. The local program's data system has the capacity to manipulate data to determine patterns and trends.	1	2	3	4	5
123. The local program follows policies and procedures set by the office of the state ombudsman regarding the provision of complaint data, facility information, and other information about long-term care facilities in its	1	2	3	4	5

<p>service area to consumers and providers. OR</p> <p>If there are no policies and procedures set by the office of the state ombudsman: The local program develops and follows a policy regarding the provision of complaint data, facility information, and other information about long-term care facilities to consumers and providers. The policy is consistent with the OAA. The local program notifies the SLTCO of this policy.</p>					
124. The LO audits local program data on a regular basis.	1	2	3	4	5
125. The local program submits all required reports to the STLCO in a timely manner.	1	2	3	4	5
<p>126. The data collected by the local program are used for:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • Local program management, including training _____ • Systems advocacy (in coordination with the office of the state ombudsman if the state office is involved with systems advocacy work) _____ • Consultation with long-term care facility administration and staff regarding complaint patterns and trends in the facility _____ • Generation of internal and external reports (e.g. reports for SLTCO, area agency on aging, funders) _____ 	1	2	3	4	5
<p>127. Local ombudsman complaint data are analyzed for purposes of quality assurance to determine:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • Timeliness of initial response _____ • How long it takes for a case to be closed _____ • Whether the program is reaching residents (as evidenced by the source of complaints) _____ • Whether ombudsmen are working for resolution or referring complaints _____ • Patterns of complaints from facilities _____ • Types of cases that are most difficult to resolve _____ • Types of cases that are not being resolved _____ • Types of complaints that the program is able to resolve most effectively _____ • Whether the best resolution strategy is used _____ 	1	2	3	4	5

Additional Points to Consider:

- Confidentiality of data – See IX, #6.
- Confidentiality of ombudsman program records – See IX, #7.

TOTAL FOR *PROGRAM MANAGEMENT* (1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about Program Management:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

III. COMPLAINT HANDLING

OLDER AMERICANS ACT (OAA) MANDATE – OAA § 712 (a)(3)(A)(D)(E); 712(a)(5)(B)(ii)(iii)(iv); 712(b)(1)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
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A. Scope

1. The type of complaint work conducted by the program is consistent with the role of a resident advocate and is distinct and separate from the duties of other entities such as the regulatory agency, adult protective services or the nursing facility. (Being a resident advocate means that the ombudsman acts at the direction of the resident and responds to what the resident says is important to him/her.)	1	2	3	4	5
2. The LO and LTCOs in the local program receive clear guidance about how to handle the following situations: (Score for subparts)	1	2	3	4	5
<ul style="list-style-type: none"> • The resident is unable to give written or oral consent and has no representative _____ • The resident is unable to give written or oral consent and the resident’s representative is acting in a way that is negatively affecting the resident _____ • The ombudsman has generated the complaint and needs to determine how to best advocate for a resident _____ • The ombudsman has witnessed or suspects abuse, and the resident does not want the ombudsman to take any action _____ • The ombudsman has witnessed or suspects abuse, and the resident is unable to give written or oral consent _____ 					

Additional points to consider:

Written policies and procedures on reporting suspected abuse and neglect – See II, D. #25

B. Complaint Prioritization and Response Times

(See “Definitions” section for explanation of the term “response time”)

<p>3. The local program adheres to the policies and procedures for complaint prioritization and response times that have been set by the office of the state ombudsman. OR</p> <p>If there are no policies and procedures set by the office of the state ombudsman: The local program develops and implements policies and procedures for complaint prioritization and response times that meet at least the following standards:</p> <p style="text-align: right;">(Score for subparts)</p> <p>Initial contact: The LO or LTCO makes contact with the complainant _____ within the same day if the LO or LTCO who is handling the complaint did not speak directly to the complainant and does not have sufficient information to prioritize the complaint.</p> <p>Complaint prioritization: _____</p> <p>Priority: 1 Type of complaint: Abuse or gross neglect, and the ombudsman has reason to believe that a resident may be at risk Actual or threatened transfer/discharge from a facility, and the ombudsman has reason to believe the transfer/discharge will occur immediately Action requiring a time-certain action Response time: Within the next working day</p> <p>Priority: 2 Type of complaint: Abuse or gross neglect, and the ombudsman has no reason to believe that a resident is at risk Response time: Within 3 working days</p>	1	2	3	4	5
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<p>Priority: 3 Type of complaint: Actual or threatened transfer/discharge from a facility, and the ombudsman has no reason to believe that the transfer/discharge will occur immediately Response time: Whichever occurs first: 5 working days Last day of bed hold period if resident is hospitalized Last day for filing a transfer/discharge appeal</p> <p>Priority: 4 Type of complaint: Other types of complaints Response time: Within 7 working days</p> <p>The local program notifies the SLTCO of these policies and procedures.</p>	
<p>4. The complaint prioritization and response time standards are uniformly implemented throughout the local program.</p>	<p>1 2 3 4 5</p>

C. Resident-Centered Focus

<p>5. The LO and LTCOs always work directly with the resident unless the resident is unable to give oral or written consent. In cases where resident consent is not possible, the LO and LTCO work with the resident's representative.</p>	<p>1 2 3 4 5</p>
<p>6. The LO and LTCOs consult and work with the resident/resident's representative at every stage of the complaint handling process, including:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • Communicating with the resident/resident's representatives to determine his/her perception of the problem and wishes when beginning an investigation _____ • Obtaining consent in accordance with established program policies _____ 	<p>1 2 3 4 5</p>

<ul style="list-style-type: none"> • Developing a plan of action with the resident/resident’s representative _____ • Keeping the resident/resident’s representative apprised _____ • Checking with the resident/resident’s representative throughout the process to determine if the resident/resident’s representative still wishes to proceed. _____ • Assessing resolution of a complaint based on the resident/resident’s representative satisfaction and not on ombudsman satisfaction. _____ 	
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D. Empowerment

7. The LO, LTCOs and ombudsman assistants in the local program empower and educate the resident and/or complainant to advocate on his or her own behalf, or with ombudsman assistance, if needed.	1	2	3	4	5
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Additional points to consider:

Resident and family councils, See IV, B. #7 - #8; IV, C. #16.
 Written materials, See IV, A.

E. Investigation

8. The LO and LTCOs in the local program use the investigative process to:	1	2	3	4	5
<ul style="list-style-type: none"> • Validate the complaint _____ • Determine the resident’s perception and wishes _____ • Determine what problem must be addressed to resolve the complaint/issue _____ • Develop ideas for resolving the complaint/issue/problem _____ 	(Score for subparts)				
(Note: The investigative process is only a means to an end in ombudsman work, and not the end itself. The purpose is to gather sufficient information to help the resident.)					

9. The LO and LTCOs in the local program investigate complaints in accordance with the essential characteristic of impartiality set forth by the American Bar Association Standards for Establishment and Operation of Ombuds Offices. ¹	1	2	3	4	5
10. The LO and LTCOs in the local program only examine residents' records when the information is essential to complaint investigation and/or complaint resolution and only with consent as mandated by the OAA.	1	2	3	4	5
11. The LO and LTCOs in the local program have appropriate access to residents' records and to any other documents to which they are entitled under the OAA during the course of their investigation.	1	2	3	4	5
12. The LO and LTCOs inform the resident/resident's representative and/or complainant of their investigation findings.	1	2	3	4	5

Additional Points to Consider:

Policies and procedures for ombudsman access to resident records – See II, D. #25

F. Resolution

13. The LO and LTCOs in the local program use a variety of approaches to resolve complaints that include but are not limited to:	1	2	3	4	5
(Score for subparts)					
Negotiation					
Promoting self-advocacy					
Mediation					
Education					
Repeated facility visits					
Using the facility chain of command					
Media					

¹ Impartiality in Conducting Inquiries and Investigations. The ombuds conducts inquiries and investigations in an impartial manner, free from initial bias and conflicts of interest. Impartiality does not preclude the ombuds from developing an interest in securing changes that are deemed necessary as a result of the process, nor from otherwise being an advocate on behalf of a designated constituency. The ombuds may become an advocate within the entity for change where the process demonstrates a need for it.

Systems advocacy strategies included in VI, C. #10. _____					
14. With resident consent, the LO and LTCOs in the local program pursue all possible strategies (e.g. repeated facility visits, facility chain of command, media) before determining that a complaint cannot be resolved.	1	2	3	4	5
15. The complaint resolution rate of the local program meets or exceeds a baseline set by the office of the state ombudsman. OR If no baseline has been set by the office of the state ombudsman: The complaint resolution rate of the local program meets or exceeds the national resolution rate as determined by NORS reporting data.	1	2	3	4	5

G. Follow-up, Referral and Case Closing

16. The LO and LTCOs follow-up with the resident/resident's representative and/or complainant regarding his or her satisfaction with the complaint outcome before closing a case.	1	2	3	4	5
17. The LO and LTCOs in the local program follow-up on complaints referred to another agency.	1	2	3	4	5
18. Cases are closed in accordance with policies and procedures set by the office of the state ombudsman. OR If no policies have been set by the office of the state ombudsman: Cases are closed in accordance with policies and procedures set by the local program.	1	2	3	4	5

H. Documentation

19. Accurate, objective and complete documentation and case notes are maintained for each case handled by the local ombudsman program.	1	2	3	4	5
20. The LO audits/reviews the documentation maintained by LTCOs in the local program on a regular, periodic basis.	1	2	3	4	5
21. All complaints are recorded and reported in accordance with the National Ombudsman Reporting System (NORS).	1	2	3	4	5

Additional Points to Consider:

Training on documentation, including NORS consistency training – See V, B. #8.

Use of reporting forms, software based on NORS – See II, I. #117

I. Other

22. When appropriate, the LO, LTCOs and ombudsman assistants in the local program generate complaints based on their own observations and knowledge of situations that affect or that could negatively affect residents.	1	2	3	4	5
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Additional Points to Consider:

Independence in complaint work – See VII, #2.

Confidentiality – See IX.

TOTAL FOR COMPLAINT HANDLING: (1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about Complaint Handling:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

IV. EDUCATION/INFORMATION AND ASSISTANCE

OLDER AMERICANS ACT (OAA) MANDATE – OAA § 712 (a)(3)(B)(C); 712 (a)(3)(G)(iii); 712(a)(3)(H)(iii); 712(a)(5)(B)(i)(ii); 712(a)(5)(B)(v)(II); 712(a)(5)(B)(vi); 712(h)(3)(A)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
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A. Written Materials

1. The local program has written educational materials on a wide range of nursing home issues and advocacy topics (e.g. residents’ rights, abuse, neglect, restraints, resident and family councils, culture change, transfers/discharges, selecting a nursing home, what quality nursing home care looks like, etc.).	1	2	3	4	5
2. Written materials in #1: <div style="text-align: right; margin-right: 20px;">(Score for subparts)</div> <ul style="list-style-type: none"> • Are easy to read _____ • Use language that is understandable _____ • Are up-to-date _____ • Are in appropriate languages _____ • Are in accessible formats (e.g. Braille, audiotape) _____ 	1	2	3	4	5
3. The local program disseminates its written educational materials to residents, families, nursing home staff, referral sources and the public.	1	2	3	4	5
4. The LO, LTCOs, and/or ombudsman assistants distribute written information about residents’ rights to residents in all long-term care facilities in the program’s service area.	1	2	3	4	5

B. Information and Assistance

5.	The local program educates and empowers consumers to advocate for themselves by providing one-on-one technical assistance.	1	2	3	4	5
6.	The local program responds to requests for information and assistance within 2 working days.	1	2	3	4	5
7.	The local program promotes the development and strengthening of resident and family councils in each long-term care facility in the program's service area.	1	2	3	4	5
8.	The local program provides technical assistance and support to residents and families in developing or strengthening a resident or family council.	1	2	3	4	5
9.	The local program provides information and technical assistance to long-term care facility staff in the program's service area. (This does not involve providing legal advice or taking on the duties of facility staff.)	1	2	3	4	5
10.	Residents and their families in the local program's service area are aware of the rights that residents have in a long-term care facility.	1	2	3	4	5
11.	The local program provides prospective residents, their families and others with guidance and information about selecting a long-term care facility.	1	2	3	4	5
12.	The local program shares best practices and pioneer network information with long-term care facility providers in the program's service area.	1	2	3	4	5

C. Presentations/Trainings

13.	The program provides presentations on residents' rights to residents in long-term care facilities within the local program's service area.	1	2	3	4	5
14.	The program provides community educational sessions to consumer groups, advocacy groups and the public within the local program's service area.	1	2	3	4	5
15.	The local program seeks opportunities within the program's service area to educate consumer groups, advocacy groups and the public about residents' rights, long-term care and issues affecting residents.	1	2	3	4	5
16.	The local program provides presentations to resident and family councils within the program's service area.	1	2	3	4	5
17.	The program provides inservice trainings to long-term care facility staff on residents' rights and other issues impacting residents within the local program's service area.	1	2	3	4	5

D. Other

<p>18. The local program uses a variety of ways to educate residents, families, citizens’ groups, legislators, and others about residents’ rights and other long-term care topics (e.g, posters, press releases, brochures, booklets, radio, tv, videos, training events, etc.).</p>	1	2	3	4	5
<p>19. The local program works with the office of the state ombudsman to inform residents and their families about any changes in residents’ rights or in laws, regulations or policies affecting residents. OR</p> <p>If the office of the state ombudsman does not take action to inform residents and their families: The local ombudsman program informs residents and their families about any changes in residents’ rights or in laws, regulations or policies affecting residents. The local program notifies the SLTCO of its actions.</p>	1	2	3	4	5

TOTAL FOR EDUCATION/INFORMATION AND ASSISTANCE:

(1) _____

(2) _____

(3) _____

(4) _____

(5) _____

➤ **Notes/General Comments about Education/Information and Assistance:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

V. TRAINING

OLDER AMERICANS ACT (OAA) MANDATE – OAA §712(a)(3)(H)(i); 712(a)(5)(C)(iv); 712(h)(4)(5)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
------------	-------------	----------------	-------------	-------------

A. General

1. Training for the local program is consistent with OAA requirements and any state requirements, if state requirements exist.	1	2	3	4	5
2. All training emanates from defined ombudsman program values.	1	2	3	4	5
3. All individuals working with the local ombudsman program receive training in a timely manner after assuming their positions.	1	2	3	4	5
4. Training of the LO and all LTCOs is directed by the SLTCO. OR If the SLTCO does not direct training: Training of all LTCOs within the local program is directed by the LO.	1	2	3	4	5
5. Training content is appropriate for adult learners (e.g. content is immediately relevant and applicable to trainee's work).	1	2	3	4	5
6. Training methodology is appropriate for adult learners and includes at least some of the following approaches: <div style="text-align: right; margin-right: 20px;">(Score for subparts)</div> <ul style="list-style-type: none"> • Web-based tools (such as manuals, questions and answers, core competencies) _____ • A written program training manual that is easy to read and contains reference and resource material _____ • Case studies, videos, role play, practice-based simulation (e.g. mock interviews), modeling, job shadowing, feedback _____ 	1	2	3	4	5

<ul style="list-style-type: none"> mechanisms (e.g. video replay, instructor critique) • Facility visits, mentoring and internships under the guidance of the LTCOP _____ • Observation of the regulatory survey process _____ • Conference calls _____ 					
7. The local program regularly reviews and evaluates its training to ensure internal consistency and compliance with the OAA.	1	2	3	4	5

B. Initial Training

1. Local Ombudsman and Long-Term Care Ombudsmen

<p>8. The LO and all new LTCOs in the local program complete the initial training required by the office of the state ombudsman. OR</p> <p>If there is no prescribed initial training required by the office of the state ombudsman:</p> <ul style="list-style-type: none"> • The LO and all new LTCOs complete at least the training curriculum developed by the National Ombudsman Resource Center _____ • The number of hours of initial training for the LO and all new LTCOs is at least equal to the number of hours contained within the training curriculum developed by the National Ombudsman Resource Center _____ • Initial training topics are in accordance with the training curriculum developed by the National Ombudsman Resource Center and include at least the following: _____ • Introduction to the LTCOP: national and state history; role and responsibilities of ombudsmen (including the ombudsman role in systems advocacy); ombudsman program philosophy, values, ethics (resident-directed and resident-centered focus); conflict of interest _____ 	1	2	3	4	5
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<ul style="list-style-type: none"> • Long-term care residents: characteristics (including introduction to mental health issues, Alzheimer’s Disease, other dementias); adjustments to facility life; need for resident autonomy and empowerment 	_____	
<ul style="list-style-type: none"> • The aging process: normal, age-related changes; typical illnesses and medical conditions of residents; medications 	_____	
<ul style="list-style-type: none"> • Long-term care facilities: classification of facilities; ownership; typical administrative structure and personnel 	_____	
<ul style="list-style-type: none"> • The regulatory system: requirements for licensure and for certification; roles of various agencies; monitoring or surveying; enforcement 	_____	
<ul style="list-style-type: none"> • Long-term care financing: Medicare; Medicaid; long-term care insurance; other types of long-term care payment 	_____	
<ul style="list-style-type: none"> • Residents’ rights: reluctance of residents to exercise their rights; understanding the meaning of residents’ rights; implications for residents, families, providers, and ombudsmen; resident and family councils; legal decision-making mechanisms 	_____	
<ul style="list-style-type: none"> • The problem-solving process: communication; confidentiality; LTCO role in receiving and resolving complaints; investigation; assessing the credibility of information from residents and families/ determining the type and amount of evidence needed in complaint handling/determining the validity of a complaint; resolution; “Precedence Protocol for Advocacy” established by Dr. Wayne Nelson; ethical issues; handling situations presented in III. A.2.; access to residents; access to records; referrals to other agencies; reporting 	_____	
<ul style="list-style-type: none"> • State structure of the LTCOP: who reports to whom; whom to contact when assistance is needed; when and how to make referrals within the program 	_____	
<ul style="list-style-type: none"> • Documentation of cases and complaints in the National Ombudsman Reporting System (NORS): Parts I, II, and III of the NORS consistency training, including basic cases and complaint documentation principles and the quizzes and other scenarios developed by the Administration 	_____	

<p>on Aging (AoA) and ombudsman representatives in 2004-2005</p> <ul style="list-style-type: none"> • Documentation of other ombudsman activities for the NORS report and other state and local ombudsman reports _____ • Resources and when ombudsmen need to contact them _____ <p>The local program notifies the SLTCO of the training curriculum being used and the number of hours of initial training provided to new LTCOs.</p>	
<p>9. The new LO completes a mentorship with another LO. Mentorship lasts both during and up to a year following certification/designation.</p>	<p>1 2 3 4 5</p>
<p>10. New LTCOs complete a mentorship with a mentor who is an experienced LTCO. Mentorship lasts both during and up to a year following certification/designation.</p>	<p>1 2 3 4 5</p>
<p>11. The LTCO mentor accompanies the new LTCO on at least one resident visit before the LTCO visits on his or her own.</p>	<p>1 2 3 4 5</p>
<p>12. Prior to certification/designation, a new LO is assessed by the SLTCO using the application-based “formal” evaluation established by the office of the state ombudsman to determine whether an individual has the skills and knowledge necessary to be designated/certified. (“Application-based” means that the individual is evaluated in a way that requires that s/he apply what has been learned to real-life scenarios.). OR</p> <p>If there is no application-based “formal” evaluation conducted by the office of the state ombudsman: Prior to certification/designation, a new LO is assessed using an application-based “formal” evaluation established and administered by any of the following: the National Ombudsman Resource Center, the National Association of Local Long-Term Care Ombudsmen; a state association of local ombudsmen; a substate group of local ombudsmen; or a new LO’s mentor.</p>	<p>1 2 3 4 5</p>
<p>13. Prior to certification/designation, new LTCOs are assessed by the LO using the application-based “formal” evaluation established by the office of the state ombudsman to determine whether an individual has the skills and knowledge necessary to be designated as a LTCO. (“Application-based” means that the individual is evaluated in a way that requires that s/he apply what has been learned to real-life scenarios.). OR</p> <p>If no application-based “formal” evaluation has been established by the office of the state ombudsman: New LTCOs are assessed by the LO using the application-based “formal” evaluation established by either the local program or one of the entities identified in #12 to determine whether an individual has the skills and knowledge necessary to be designated as a LTCO. (“Application-based” means that the individual is evaluated in a way</p>	<p>1 2 3 4 5</p>

that requires that s/he apply what has been learned to real-life scenarios.).					
14. The LO provides the SLTCO with recommendations regarding certification/designation of a new LTCO based on: a) the new LTCO's performance during the training and mentorship; and b) the new LTCO's performance on the application-based formal evaluation.	1	2	3	4	5
15. New LTCOs are oriented to the facility or facilities to which they are assigned.	1	2	3	4	5
16. Long-term care facility administration is notified about the new LO and/or LTCO prior to the LO's or LTCO's first visit.	1	2	3	4	5
17. The SLTCO assesses how well a new LO is doing within the first 6 months using the format/tool established by the office of the state ombudsman. (This can be the same format/tool used in #12). OR If no tool or process for assessing a new LO within the first 6 months has been established by the office of the state ombudsman: A new LO is assessed within the first 6 months using a format/tool established and administered by any of the following: the National Ombudsman Resource Center, the National Association of Local Long-Term Care Ombudsmen; a state association of local ombudsmen; a substate group of local ombudsmen; a new LO's mentor. (The format/tool can be the same one used in #12)	1	2	3	4	5
18. The LO assesses how well new LTCOs are doing within the first 6 months using the format/tool established by the office of the state ombudsman. OR If no format for assessing new LTCOs has been established by the office of the state ombudsman: the LO assesses how well new LTCOs are doing within the first 6 months using a format/tool developed either by the local program or by the National Ombudsman Resource Center, the National Association of Local Long-Term Care Ombudsmen; a state association of local ombudsmen; a substate group of local ombudsmen; or a new LO's mentor. (The format/tool can be the same one used in #12).	1	2	3	4	5
19. The LO and LTCOs receive training in management and supervisory functions; media relations; volunteer management; public education; and program promotion <i>if their job includes these duties</i> .	1	2	3	4	5
20. The LO and LTCOs receive formal recognition upon completing initial training (e.g. a certificate, a certification card).	1	2	3	4	5

2. Ombudsman Assistants

21. Prior to beginning any work or visiting residents, all ombudsman assistants complete the initial training required for LTCOs.	1	2	3	4	5
22. Ombudsman assistants receive some type of recognition upon completing initial training (e.g. a certificate, a certification card).	1	2	3	4	5
23. New ombudsman assistants who visit residents are oriented to the facility or facilities to which they are assigned, and long-term care facility administration is notified about the new ombudsman assistant prior to the ombudsman assistant's first visit.	1	2	3	4	5
24. Ombudsman assistants who do not visit residents receive any additional training necessary to perform their assigned duties.	1	2	3	4	5

C. Ongoing In-Service Training

1. Local Ombudsman and Long-Term Care Ombudsmen

<p>25. The LO and LTCOs within the local program complete all ongoing in-service training requirements set by the SLTCO. OR</p> <p>If there are no ongoing in-service training requirements set by the SLTCO:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • The LO completes ongoing in-service training requirements as recommended by the National Ombudsman Resource Center, the National Association of Local Long-Term Care Ombudsmen or a state association of local ombudsmen. _____ • LTCOs within the local program complete all ongoing in-service training requirements set by the LO. _____ 	1	2	3	4	5
<p>26. Ongoing training for the LO and LTCOs in the local program is based on the following criteria:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • Identification of need (of residents, of ombudsmen, etc.) _____ • Analysis of program data _____ • Analysis of technical assistance questions received in the local office _____ • Latest trends and developments _____ 	1	2	3	4	5

<ul style="list-style-type: none"> • Need to revisit topics that have not been covered recently _____ 					
<p>27. Ongoing in-service training for the LO and LTCOs includes at least the following topics: (Note: each of these topics does not need to be included every year. However, the LO and LTCOs should receive training in these topics at some point after their initial designation.)</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • Advanced systems advocacy, including systems advocacy within a particular facility _____ • Protocols for ombudsman work/roles _____ • Using laws/regulations as tools to help residents _____ • Understanding the mental health needs of residents² _____ • Working with residents with Alzheimer’s Disease, other dementias, and other physical/mental conditions that affect resident decision-making capacity _____ • Abuse and neglect _____ • Periodic refreshing and refining of LTCO skills, including complaint handling skills _____ • Periodic revisiting of the basics of ombudsman ethics, values and ombudsman program philosophy _____ • Documenting cases, complaints and other activities _____ • Cultural diversity _____ • Culture change _____ 	1	2	3	4	5
28. The LO provides input to the SLTCO regarding topics to meet ongoing training needs.	1	2	3	4	5
29. The LO periodically surveys LTCOs and ombudsman assistants within the local program about their ongoing training needs.	1	2	3	4	5
30. Training content and techniques are adjusted to accommodate the needs of both new and experienced ombudsmen.	1	2	3	4	5
31. Records are kept regarding the topics covered in trainings provided to LTCOs within the local program.	1	2	3	4	5
32. Ongoing training for the LO and the LTCOs in the local program includes both training limited to ombudsmen only, as well as workshops and conferences on topics related to ombudsman work sponsored	1	2	3	4	5

² One source of training information on this topic is the Mental Health Ombudsman Training Manual by Susan Wehry, M.D.

by and held for groups outside the ombudsman network.					
33. The LO and LTCOs have access to conference calls, materials and other resources, and assistance provided by the National Ombudsman Resource Center, the National Citizens' Coalition for Nursing Home Reform, and the National Association of Local Long-Term Care Ombudsmen.	1	2	3	4	5
34. The LO and LTCOs are provided with the opportunity on a periodic basis to network with representatives from state or local agencies that monitor or investigate nursing homes or serve nursing home residents (e.g. staff from the licensure and certification agency, Adult Protective Services, the state Quality Improvement Organization, Medicaid Fraud Control Unit, etc.).	1	2	3	4	5

2. Ombudsman Assistants

35. Ombudsman assistants who visit residents receive ongoing training on an annual basis.	1	2	3	4	5
36. Ombudsman assistants who visit residents complete the ongoing training requirements set by the office of the state ombudsman; OR If there are no requirements set by the office of the state ombudsman: Ombudsman assistants who visit residents complete the ongoing training requirements set by the LO.	1	2	3	4	5
37. Ombudsman assistants who do not visit residents receive ongoing training commensurate with their duties and needs.	1	2	3	4	5
38. Ombudsman assistants who do not visit residents complete the ongoing training requirements set by the LO.	1	2	3	4	5

D. Other

39. At least once a year a training conference is held that physically brings together the LO, all LTCOs, ombudsman assistants and any other individuals in the local ombudsman program.	1	2	3	4	5
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TOTAL FOR TRAINING: (1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about Training:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

VI. SYSTEMS ADVOCACY

OLDER AMERICANS ACT (OAA) MANDATE – OAA §712 (a)(3)(E)(G); 712 (a)(5)(B)(iv)(v); 712(h)(1)(D)(E)(F); 712(h)(2)(3)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
------------	-------------	----------------	-------------	-------------

A. General

1. The local program, in coordination with the office of the state ombudsman, promotes systems change to address the quality of life and quality of care of long-term care residents. OR If there is no systems change work conducted by the office of the state ombudsman: The local program promotes systems change to address the quality of life and quality of care of long-term care residents.	1	2	3	4	5
2. If the office of the state ombudsman does not conduct systems advocacy, the local program joins with other local programs and interested organizations to encourage and promote systems advocacy at the state level.	1	2	3	4	5

B. Development of Advocacy Agenda

3. The local program provides written input to the office of the state ombudsman regarding issues to be included in the state systems advocacy agenda, if such an agenda exists.	1	2	3	4	5
4. In cases where there is a state systems advocacy agenda, the local program works with the state program to address at least one systems advocacy goal that affects residents throughout the state. (The goal is drawn from the state systems advocacy agenda.)	1	2	3	4	5
5. The local program develops an identifiable local systems advocacy agenda to address an issue or issues faced by residents in the program's service area. (NOTE: systems advocacy includes advocacy to resolve systemic	1	2	3	4	5

problems with care at the individual facility level or within facilities owned by a particular corporation, as well as efforts to improve laws, regulations and policies affecting residents.)					
6. The local program has a system in place for selecting its local systems advocacy agenda.	1	2	3	4	5
7. The local program bases its systems advocacy on ombudsman program data, and other relevant data (such as licensure and certification data) and has documentation to support its positions.	1	2	3	4	5
8. The local program has a database or access to a database that enables it to identify systemic issues at a facility or regional level in a timely manner.	1	2	3	4	5
9. The local program revisits its systems advocacy agenda at least once a year and revises it as necessary.	1	2	3	4	5

Additional Points to Consider:

- Role of advisory board in advocacy – See XIII, #1.

C. Implementation of Advocacy Agenda

10. The LO, and the LTCOs and ombudsman assistants when directed to do so by the LO, carry out the local systems advocacy agenda and the state systems advocacy agenda (when a state agenda exists) in at least the following ways:	1	2	3	4	5
	(Score for subparts)				
<ul style="list-style-type: none"> • Working for legislative, regulatory or administrative changes to improve the health, safety, welfare and rights of residents _____ • Contacting legislators and policy makers _____ • Contacting the media _____ • Disseminating information about policy/legislative issues affecting residents _____ • Educating legislators, policy makers, governmental agencies, the media, residents, their families and the public about a) the impact of laws, regulations, policies, and/or practices on long-term care residents (e.g. through written materials, presentations, etc.); and b) the status of facilities in which there are serious deficiencies affecting resident well-being _____ • Making public recommendations regarding issues affecting residents _____ • Facilitating public comment about facility policies at the individual _____ 					

<p>facility level and about public policies at the regional, state, and/or national level</p> <ul style="list-style-type: none"> • Disseminating ombudsman program public reports _____ • Holding and/or participating in public forums or hearings _____ 					
11. The local program educates its volunteers about, and involves them - when appropriate - in implementing the local systems advocacy agenda and the state systems advocacy agenda (when a state agenda exists).	1	2	3	4	5
12. The local program is unencumbered in carrying out its local systems advocacy agenda and the state systems advocacy agenda (when a state agenda exists) and in responsibly representing the concerns and interests of long-term care residents (for example, the LO, and LTCOs when directed by the LO, are able to take issues affecting residents directly to legislators and other policymakers).	1	2	3	4	5
13. The local program is permitted to take a stance on behalf of residents that is contrary to the position of its host agency.	1	2	3	4	5
14. The local program initiates and participates in coalitions and task forces at the local level to address long-term care issues affecting residents in the program's service area.	1	2	3	4	5

D. Education About Advocacy Agenda

15. The local program educates residents, their families, citizens' groups and the public about, and involves them in, the local systems advocacy agenda and the state systems advocacy agenda (when a state agenda exists).	1	2	3	4	5
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TOTAL FOR SYSTEMS ADVOCACY:

(1) _____

(2) _____

(3) _____

(4) _____

(5) _____

➤ **Notes/General Comments about Systems Advocacy:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

VII. PROGRAM INTEGRITY

OLDER AMERICANS ACT (OAA) MANDATE – OAA §712(a)(1)(A); (a)(3)(E)(G); (a)(5)(B)(iv)(v); (h)(1)(D)(E)(F); (h)(2); (h)(3)(i)(ii); OAA §712(a)(4)(B); (a)(5)(C)(ii); (f); (j)(1)(3)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
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<p>1. The LO, LTCOs, ombudsman assistants and any individual working with the local ombudsman program are housed in an entity of government (state or local) or agency outside government in which they are free to:</p> <p style="text-align: right; margin-right: 20px;">(Score for subparts)</p> <ul style="list-style-type: none"> • Represent the interests of residents before governmental agencies, legislative committees, individual legislators and other individuals, groups or entities _____ • Communicate directly with directors of government entities, legislators, policy makers and the media about issues affecting residents _____ • Provide uncensored public testimony that reflects the views of the ombudsman program _____ 	1	2	3	4	5
<p>2. The local program vigorously pursues all reasonable courses of action that are in the best interests of residents.</p>	1	2	3	4	5
<p>3. The operation of the local program is in accordance with the essential characteristic of independence set forth by the American Bar Association Standards for Establishment and Operation of Ombuds Offices.³</p>	1	2	3	4	5

³ Independence. The ombuds is and appears to be free from interference in the legitimate performance of duties and independent from control, limitation, or a penalty imposed for retaliatory purposes by an official of the appointing entity or by a person who

Additional Points to Consider:

- Independence in implementing advocacy agenda – See VI, C. #10, #12, #13
- Program logo – See I, B. #11
- Program stationery – .See I, B. #12.
- LO and budget – See II, E. #33; XI, #16.

may be the subject of a complaint or inquiry. In assessing whether an ombuds is independent in structure, function, and appearance, the following factors are important: whether anyone subject to the ombuds's jurisdiction or anyone directly responsible for a person under the ombuds's jurisdiction (a) can control or limit the ombuds's performance of assigned duties or (b) can, for retaliatory purposes, (1) eliminate the office, (2) remove the ombuds, or (3) reduce the budget or resources of the office.

TOTAL FOR PROGRAM INTEGRITY: (1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about Program Integrity:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

VIII. CONFLICT OF INTEREST

OLDER AMERICANS ACT (OAA) MANDATE – OAA §712(a)(4)(B); 712(a)(5)(C)(ii); 712(f); 712(g)(1)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
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A. General

<p>1. The local program adheres to policies and procedures set by the office of the state ombudsman for:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • Identifying any actual conflicts (including those listed in points B. #4-10) and potential conflicts of interest (all of which cannot be anticipated or listed); and _____ • Determining whether these conflicts can be sufficiently remedied. _____ <p style="margin-left: 20px;">OR</p> <p>If no policies have been set by the office of the state ombudsman: The local program develops and implements policies and procedures for:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • Identifying any actual conflicts (including those listed in points B. # 4-10) and potential conflicts of interest (all of which cannot be anticipated or listed); and _____ • Determining whether these conflicts can be sufficiently remedied. _____ (A conflict can be sufficiently remedied only where the existence of the conflict does not interfere with any duties of the ombudsman program and where the conflict is not likely to alter the perception of 	1	2	3	4	5
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<p>the program as an independent advocate for residents.)</p> <p>Such policies and procedures include:</p> <ul style="list-style-type: none"> ○ a conflict of interest screen to be completed by each person working in, overseeing or making decisions affecting the local program _____ ○ a system for notifying the SLTCO of any actual or potential conflicts of interest and the proposed remedy _____ <p>The local program notifies the SLTCO of these policies and procedures. _____</p>					
2. The local program complies with decisions made by the SLTCO regarding whether a conflict can be sufficiently remedied.	1	2	3	4	5
3. The attorney that provides legal counsel to the local ombudsman program does not advise or represent other agencies or interests that have an actual or potential conflict of interest with residents' interests or ombudsman duties.	1	2	3	4	5

B. Preventing Actual Conflicts of Interest

<p>4. The LO, LTCOs, ombudsman assistants and any individual working with the local ombudsman program are housed in an entity of government (state or local) or agency outside government whose head is free of responsibilities for any of the following:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> ● Licensure, certification, registration, or accreditation of long-term care facilities _____ ● Reimbursement rate settings for long-term care facilities _____ ● Medicaid eligibility determination _____ ● Decisions regarding admission of elderly individuals to long-term care facilities _____ ● Guardianship services _____ ● Management or ownership of a long-term care facility _____ 	1	2	3	4	5
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<p>5. The LO, LTCOs, ombudsman assistants and any individual working with the local ombudsman program are housed in an entity of government (state or local) or agency outside government in which they are not subject to the control of any agency of State Government or any State Official that also directly supervises the licensing and certification of long-term care facilities, owns or operates such facilities, or provides long-term care services in a long-term care facility.</p>	1	2	3	4	5
<p>6. The local ombudsman program functions independently of:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • Any adult protective services program or unit impacting clients or potential clients of the ombudsman program _____ • Any long-term care case management service impacting clients or potential clients of the ombudsman program _____ • Any program that provides long-term care services in a long-term care facility _____ 	1	2	3	4	5
<p>7. The LO, LTCOs, ombudsman assistants, and any individual working with the local ombudsman program (including the supervisor of the LO) or the members of their immediate family:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • Have no direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care services _____ • Have no ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service⁴ _____ • Are not employed by, or participating in the management of, a long-term care facility _____ • Do not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility _____ • Do not provide services to residents of a facility or another facility _____ 	1	2	3	4	5

⁴ Ownership of shares in a mutual fund or other publicly traded pooled investment fund whose assets may include publicly traded securities of long-term care facilities or service organizations shall not generally constitute a conflict of interest, unless the investments of such fund are limited to such facilities and/or service organizations, or such investments normally form a large percentage of such fund.

<p>within the corporation if the individual has been an employee of that long-term care facility within the previous year</p> <ul style="list-style-type: none"> • Do not provide services to residents of a facility that belongs to a long-term care facility trade association if the individual has been an employee of that trade association within the previous year • Do not stand to gain financially through an action or potential action brought on behalf of individuals the ombudsman services, including but not limited to selling services or products to residents or to long-term care facilities • Do not serve as a resident’s agent, medical decision-maker or surrogate; the sole witness for Do Not Resuscitate (DNR) orders or other medical directives (except to serve in such capacity for a family member or another with whom the ombudsman has a close personal relationship originating outside of the role as ombudsman); or as a member of a facility’s ethics committee • Are not directly supervised by, do not provide supervision for, or do not provide services on behalf of a program with conflicting responsibility. Conflicting responsibility includes, but is not limited to, an agency which directly administers or supervises the administration of the licensing and certification of long-term care facilities; controls access to a facility (e.g., pre-admission screening); adult protective services programs or program units which develop and carry out care plans for, provide involuntary services to, are authorized to take temporary custody of, or serve as guardians, conservators or legal representatives for any clients (except to serve in such capacity for a family member or another with whom the ombudsman has a close personal relationship originating outside of the role as ombudsman.) 	
<p>8. The LO, LTCOs and ombudsman assistants in a local program do not provide services to residents of a long-term care facility in which they have an immediate family member residing.</p>	<p>1 2 3 4 5</p>
<p>9. Board members of an agency that houses a local ombudsman entity do not serve in any decision-making policy-setting or program operation capacity relative to the ombudsman program if they have the following conflicts of interest:</p>	<p>1 2 3 4 5</p>

<ul style="list-style-type: none"> • Current direct involvement in the licensing or certification of a long-term care facility or a provider of a long-term care service _____ • Current employment in, contractual arrangement with, or participation in the management of a long-term care facility _____ • A current financial interest in a long-term care facility or a long-term care service _____ • Current membership in a trade association of long-term care facilities _____ 	(Score for subparts)
<p>10. In cases where the local ombudsman program is responsible under state law or policy for home care complaints, the LO, LTCOs, ombudsman assistants and any individual working with the local ombudsman program are housed in an entity of government (state or local) or agency outside government whose head is free of responsibilities for any of the following:</p> <ul style="list-style-type: none"> Provision of long-term care services, including Medicaid waiver programs Long-term care case management Reimbursement rate settings for home care services 	<p>1 2 3 4 5</p>

Additional Points to Consider:

- Written policies and procedures for conflict of interest – See II, D. #25.
- Phone line – See I, A. #1

TOTAL FOR CONFLICT OF INTEREST: (1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about Conflict of Interest:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

IX. CONFIDENTIALITY

OLDER AMERICANS ACT (OAA) MANDATE – OAA §712 (a)(5)(D)(iii); 712(d)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
------------	-------------	----------------	-------------	-------------

1. The local program only discloses the identity of a resident or a complainant under the conditions mandated by the OAA.	1	2	3	4	5
2. The LO, LTCOs, ombudsman assistants and any individual working with the local ombudsman program sign a confidentiality agreement.	1	2	3	4	5
3. The LO, LTCOs and ombudsman assistants explain the parameters of confidentiality to the resident and/or complainant and maintain those parameters.	1	2	3	4	5
4. The LO, LTCOs and ombudsman assistants assure that meetings with residents and/or complainants are conducted in a private location.	1	2	3	4	5
5. All communication relating to a complaint remains confidential and is handled only by individuals working within the local ombudsman program.	1	2	3	4	5
6. All data, including those in electronic format, maintained by the local ombudsman program remain confidential. Disclosure is permitted only in accordance with the requirements of the OAA.	1	2	3	4	5
7. All local ombudsman program records, both paper and electronic, remain confidential and are maintained in secure files. (“Secure” means that: a) paper records are kept in locked filing cabinets and only individuals working within the ombudsman program have access to the key to the cabinet; and b) electronic records can only be accessed with a passcode that is available only to individuals working within the ombudsman program.)	1	2	3	4	5
8. Only individuals working with the local ombudsman program and who have signed a confidentiality agreement have access to ombudsman program files.	1	2	3	4	5
9. All closed files are located with the LO. Copies are not kept in any other location.	1	2	3	4	5

Additional Points to Consider:

Written policies and procedures regarding confidentiality – See II, D. #25.

TOTAL FOR CONFIDENTIALITY: (1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about Confidentiality:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

X. LEGAL RESOURCES

OLDER AMERICANS ACT (OAA) MANDATE – OAA §712(g); 712(i)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
------------	-------------	----------------	-------------	-------------

1. The local program has adequate legal support for its advocacy responsibilities. (Examples of legal support that would be provided to the local program in consultation with the SLTCO include obtaining legal opinions, letters of demand/inquiry to send to facilities and/or the licensing/certification agency; training; and preparing ombudsmen to respond to depositions or to participate in hearings when the ombudsman is not the subject of the legal action.)	1	2	3	4	5
2. Legal representation is available to any individual working with the local ombudsman program against whom suit or other legal action is brought or threatened in connection with the performance of the official duties of the program.	1	2	3	4	5
3. Legal assistance and counsel is readily available to the LO and LTCOs to assist with both individual and systems advocacy.	1	2	3	4	5
4. Legal counsel and representation is available to handle all litigation, controversies and legal matters to which the local program may be a party or in which its rights and interests may be involved and in all proceedings or actions which may be brought by or against it before any court or administrative agency.	1	2	3	4	5
5. Legal representation, assistance and counsel is provided by an attorney who has relevant experience and expertise.	1	2	3	4	5
6. The LO and any LTCOs who represent residents in involuntary transfer/discharge hearings receive legal training, support and/or guidance.	1	2	3	4	5

Additional Points to Consider:

Conflict of interest of legal counsel – See VIII, A. #3.

TOTAL FOR LEGAL RESOURCES: (1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about Legal Resources:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

XI. FISCAL RESOURCES

OLDER AMERICANS ACT (OAA) MANDATE – OAA §304(d)(1)(B); §306(a)(9); §307(a)(9); §321(d); §705(a)(4)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
------------	-------------	----------------	-------------	-------------

1. Funding of the local program is sufficient to support the work of the program.	1	2	3	4	5
2. The LO has knowledge of the amount of Title III funds expended on activities of the local ombudsman program by the area agency on aging.	1	2	3	4	5
3. Each area agency expends on activities of the local ombudsman program no less than the total amount of Title III funds received under Section 304 (d)(1)(D) of the OAA and expended by the area agency in carrying out the ombudsman program under Title III in FY 2000 (or for the year specified in the most recent reauthorization of the Act).	1	2	3	4	5
4. Title VII ombudsman program funds are not used within the local program to supplant, replace or substitute for any other federal, state or local funding expended pursuant to federal, state or local funding laws that were in effect on or before 11/12/00.	1	2	3	4	5
5. The local program maximizes fiscal resources (e.g. tapping into other OAA funds such as elder abuse prevention, family caregiver dollars; teaming up with another organization that might be able to cover expenses when there is an issue and a message that the ombudsman program supports and where the program would receive recognition; advocating for increased Title III funding for local ombudsman entities, etc.).	1	2	3	4	5
6. The fiscal resources that are designated by federal and state authorities for the local ombudsman program are expended solely on the ombudsman program and are not used for any other program or purpose.	1	2	3	4	5
7. OAA funds are used exclusively for OAA delineated responsibilities and not for state mandates or local initiatives that go beyond the scope of the OAA.	1	2	3	4	5
8. Direct ombudsman services are not limited by excessive administrative fees or charges assessed by contracting or host agencies. (20% is an example of excessive administrative fees or charges.)	1	2	3	4	5

9. The LO has knowledge of the range of administrative fees or charges assessed by other contracting or host agencies within the state.	1	2	3	4	5
10. Assessments of reasonable administrative fees or charges at the local level are approved by the SLTCO.	1	2	3	4	5
11. The LO provides input to the SLTCO regarding the effectiveness of the formula used for distributing funds to local programs.	1	2	3	4	5
12. The funding for the program is broadly based (e.g. includes both government and nongovernment funds).	1	2	3	4	5
13. The local program continually seeks additional funding from a variety of diverse sources (e.g. agencies such as United Way, foundations, donations, etc.).	1	2	3	4	5
14. The local program's host agency and advisory board actively seek additional funding for ombudsman program services.	1	2	3	4	5
15. The program has established a mechanism for accepting tax-deductible donations.	1	2	3	4	5
16. The LO has control over or input into the local program's budget and makes decisions about the use of the program's fiscal resources.	1	2	3	4	5

TOTAL FOR FISCAL RESOURCES: (1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about Fiscal Resources:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

XII. RELATIONSHIPS WITH AGENCIES/ENTITIES/ INDIVIDUALS/CITIZENS' GROUPS /OTHERS

OLDER AMERICANS ACT (OAA) MANDATE – OAA §712(a)(3)(H)(ii); 712(h)(6)(7)(8)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
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1. The local program develops and maintains relationships with a wide range of agencies, individuals and entities outside of the ombudsman program (e.g. regional/local surveyors, local adult protective services investigators; regional Medicaid Fraud Control Unit investigators; regional legislators; the media; etc).	1	2	3	4	5
2. The local program and the agencies/organizations with which it interacts have a clear understanding of each other's roles, responsibilities, capabilities and limitations.	1	2	3	4	5
3. The local program responds to referrals and requests for assistance from organizations/agencies in a timely manner.	1	2	3	4	5
4. The local program fulfills all pertinent commitments made under any memorandum of understanding established between the office of the state ombudsman and another agency or entity.	1	2	3	4	5
5. The local program implements the system established by the office of the state ombudsman for sharing ombudsman information about nursing facilities with regional/local surveyors.	1	2	3	4	5
6. The local program initiates and/or participates in consumer or other advocacy groups that relate to long-term care facility residents and works with these groups on systems advocacy issues.	1	2	3	4	5
7. The local program builds alliances with citizens' groups and works with them in the following ways: (Score for subparts)	1	2	3	4	5
• Shares information					_____
• Provides knowledge and expertise					_____
• Assists in analyzing policy issues					_____

<ul style="list-style-type: none"> • Disseminates information about citizens' groups to residents, families and the public _____ • Jointly advocates for legislation that will benefit residents _____ 					
8. The LO or LTCO designated by the LO serves on local committees, councils, workgroups and other groups that are involved in issues related to residents of long-term care facilities within the program's service area.	1	2	3	4	5
9. The LO and LTCOs develop and maintain a professional relationship with providers and, if applicable, with long-term care facility trade associations.	1	2	3	4	5

TOTAL FOR *RELATIONSHIPS WITH OTHERS*:

(1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about *Relationships with Others*:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

XIII. ACCOUNTABILITY

OLDER AMERICANS ACT (OAA) MANDATE – OAA §712(e)

INDICATORS

Rate your program according to the following scale:

1 Never	2 Seldom	3 Sometimes	4 Mostly	5 Always
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<p>1. The local program has an advisory board whose role is to:</p> <p style="text-align: right;">(Score for subparts)</p> <ul style="list-style-type: none"> • Provide advice regarding the planning and operation of the local program (NOTE: the advisory board does not make decisions for or otherwise serve as a governing body of the program) _____ • Assist in the planning and implementing of the program’s advocacy agenda _____ • Upon request of the program, provide feedback/input on program performance, including whether the program has been able to achieve changes in any facility/facilities in the program’s service area _____ • Provide advice on any issues brought to it by the LO _____ • Assist in fund raising for the program _____ • Assist in special projects _____ 	1	2	3	4	5
<p>2. The advisory board is made up of a majority of long-term care facility residents and long-term care consumers/advocates.</p>	1	2	3	4	5

TOTAL FOR ACCOUNTABILITY: (1) _____ (2) _____ (3) _____ (4) _____ (5) _____

➤ **Notes/General Comments about Accountability:**

➤ **Areas of Difficulty:**

For each indicator that you rated as “1” or “2,” identify: (1) the reasons why you are having difficulty with this indicator; (2) the factors affecting this indicator over which you have control; and (3) the factors affecting this indicator over which you have no control.

➤ **Plans for Improvement/Recommendations:**

For each indicator you target for improvement, identify your specific goal, actions steps, and time frames.

APPENDIX 1

OLDER AMERICANS ACT

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 35 - PROGRAMS FOR OLDER AMERICANS
SUBCHAPTER XI - ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION
ACTIVITIES
Part A - State Provisions
subpart ii - ombudsman programs

Sec. 3058g. State Long-Term Care Ombudsman program

STATUTE:

(a) Establishment

(1) In general

In order to be eligible to receive an allotment under section 3058b of this title from funds appropriated under section 3058a(a) of this title, a State agency shall, in accordance with this section -

(A) establish and operate an Office of the State Long-Term Care Ombudsman; and

(B) carry out through the Office a State Long-Term Care Ombudsman program.

(2) Ombudsman

The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

(3) Functions

The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office -

(A) identify, investigate, and resolve complaints that -
 (i) are made by, or on behalf of, residents; and
 (ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of -

- (I) providers, or representatives of providers, of long-term care services;
- (II) public agencies; or
- (III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph

(A)(ii) or services described in subparagraph (B);

(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

(G)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;
 (ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and
 (iii) facilitate public comment on the laws, regulations, policies, and actions;

(H)(i) provide for training representatives of the Office;
 (ii) promote the development of citizen organizations, to participate in the program; and

(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

(l) carry out such other activities as the Assistant Secretary determines to be appropriate.

(4) Contracts and arrangements

(A) In general

Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) Licensing and certification organizations; associations

The State agency may not enter into the contract or other arrangement described in subparagraph (A) with -

(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

(ii) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

(5) Designation of local Ombudsman entities and representatives

(A) Designation

In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

(B) Duties

An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency -

(i) provide services to protect the health, safety, welfare;

(ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;

(iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;

(iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

- (v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and
- (II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;
- (vi) support the development of resident and family councils; and
- (vii) carry out other activities that the Ombudsman determines to be appropriate.

(C) Eligibility for designation

Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall -

- (i) have demonstrated capability to carry out the responsibilities of the Office;
- (ii) be free of conflicts of interest;
- (iii) in the case of the entities, be public or nonprofit private entities; and
- (iv) meet such additional requirements as the Ombudsman may specify.

(D) Policies and procedures

(i) In general

The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.

(ii) Policies

In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.

(iii) Confidentiality and disclosure

The State agency shall develop the policies and procedures in accordance with all provisions of this part regarding confidentiality and conflict of interest.

(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).

(c) Reporting system

The State agency shall establish a statewide uniform reporting system to -

(1) collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems; and

(2) submit the data, on a regular basis, to -

(A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;

(B) other State and Federal entities that the Ombudsman determines to be appropriate;

(C) the Assistant Secretary; and

(D) the National Ombudsman Resource Center established in section 3012(a)(21) of this title.

(d) Disclosure

(1) In general

The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c) of this section.

(2) Identity of complainant or resident

The procedures described in paragraph (1) shall -

(A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

(B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless -

(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

(ii)(I) the complainant or resident gives consent orally; and

(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or

(iii) the disclosure is required by court order.

(e) Consultation

In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.

(f) Conflict of interest

The State agency shall -

(1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5) of this section, is subject to a conflict of interest;

(2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;

(3) ensure that the Ombudsman -

(A) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

(B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

(C) is not employed by, or participating in the management of, a long-term care facility; and

(D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and

(4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as -

(A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

(B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

(g) Legal counsel

The State agency shall ensure that -

(1)(A) adequate legal counsel is available, and is able, without conflict of interest, to -

(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and

(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

(B) legal representation is provided 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 of the Ombudsman or such a representative; and

(2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

(h) Administration

The State agency shall require the Office to -

- (1) prepare an annual report -
 - (A) describing the activities carried out by the Office in the year for which the report is prepared;
 - (B) containing and analyzing the data collected under subsection (c) of this section;
 - (C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;
 - (D) containing recommendations for -
 - (i) improving quality of the care and life of the residents; and
 - (ii) protecting the health, safety, welfare, and rights of the residents;
 - (E)(i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care facilities; and
(ii) identifying barriers that prevent the optimal operation of the program; and
 - (F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;
- (2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;
- (3)(A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding -
 - (i) the problems and concerns of older individuals residing in long-term care facilities; and
 - (ii) recommendations related to the problems and concerns; and
- (B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

(4)(A) not later than 1 year after September 30, 1992, establish procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that -

(i) specify a minimum number of hours of initial training;

(ii) specify the content of the training, including training relating to -

(I) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;

(II) investigative techniques; and

(III) such other matters as the State determines to be appropriate; and

(iii) specify an annual number of hours of in-service training for all designated representatives; and

(B) require implementation of the procedures not later than 21 months after September 30, 1992;

(5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) of this section unless the representative -

(A) has received the training required under paragraph (4); and

(B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under -

(A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.); and

(B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

(7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 3026(a)(2)(C) of this title, through adoption of memoranda of understanding and other means; and

(8) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).

(i) Liability

The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(j) Noninterference
The State shall -

(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;

(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

APPENDIX 2

SUPPORTING REFERENCES

GENERAL REFERENCES

Below is a list of documents that support the importance of the components and indicators found in the “Self-Evaluation And Continuous Quality Improvement Tool For State Long-Term Care Ombudsman Programs.” Please note that this list is not exhaustive. For information about how to obtain any of these documents, contact the National Ombudsman Resource Center.

Administration on Aging letter to A.E. Pooser. March 22, 1993.

Administration on Aging letter to Lea Nordlicht Shedd, Esq. and Judith Hoberman, Esq. November 8, 1996.

Administration on Aging letter to Mark A. Haverland. March 12, 2003.

Administration on Aging letter to Sue Ward. August 28, 1998.

Administration on Aging letter to Virginia Fraser. March 3, 1998.

Best Practice Notes on Delivery of Legal Assistance to Older Persons. The Center for Social Gerontology, Inc. November 1998.

Effectiveness of the State Long Term Care Ombudsman Programs. A Report for the Henry J. Kaiser Family Foundations. Estes, C.L., Zulman, D.M., Goldberg, S.C., Ogawa, D.D. June 2001.

Frequently Asked Questions and Answers About The Long-Term Care Ombudsman Program Under the Older Americans Act, as Amended in 2000. U.S. Department of Health and Human Services, Administration on Aging. Updated August 2003.

The Long-Term Care Ombudsman Program: Rethinking and Retooling for the Future. Proceedings and Recommendations. National Association of State Long-Term Care Ombudsman Programs. April 2003.

The Older Americans Act: Access to and Utilization of the Ombudsman Program. GAO/PEMD-92-21. Washington, D.C.: GAO, 1992b.

Program Instruction (AoA-PI-81-8). U.S. Department of Health & Human Services, Administration on Aging. January 19, 1981.

Program Instruction (AoA-PI-94-02). U.S. Department of Health & Human Services, Administration on Aging. April 5, 1994.

Program Instruction (AoA-PI-95-10). U.S. Department of Health & Human Services, Administration on Aging. September 29, 1995.

Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Institute of Medicine (IOM). Harris-Wehling, J., Feasley, J.C., Estes, C.L. Washington, D.C. Division of Health Care Services, Institute of Medicine, 1995.

Report (Ombuds Offices). American Bar Association, Section of Administrative Law and Regulatory Practice.

Standards for the Establishment and Operation of Ombuds Offices. American Bar Association, Section of Administrative Law and Regulatory Practice.

What's It All About? Ombudsman Program Primer for State Aging Directors and Executive Staff. National Long-Term Care Ombudsman Resource Center. January 1996.

SPECIFIC REFERENCES

Sections from the general reference documents that highlight the importance of a *specific* component in the “Self-Evaluation and Continuous Quality Improvement Tool For State Long-Term Care Ombudsman Programs” are listed below. Note that this list of references is not exhaustive.

Program Access

Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Institute of Medicine (IOM). Harris-Wehling, J., Feasley, J.C., Estes, C.L. Washington, D.C. Division of Health Care Services, Institute of Medicine, 1995. p. 141-142.

Program Management

Role of State Long-Term Care Ombudsman; Designation of Local Ombudsman and Entities

Administration on Aging letter to Lea Nordlicht Shedd, Esq. and Judith Hoberman, Esq. November 8, 1996. pp. 1-4.

Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Institute of Medicine (IOM). Harris-Wehling, J., Feasley, J.C., Estes, C.L. Washington, D.C. Division of Health Care Services, Institute of Medicine, 1995. pp. 111, 200.

Staffing

Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Institute of Medicine (IOM). Harris-Wehling, J., Feasley, J.C., Estes, C.L. Washington, D.C. Division of Health Care Services, Institute of Medicine, 1995. p. 194.

Volunteers

Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Institute of Medicine (IOM). Harris-Wehling, J., Feasley, J.C., Estes, C.L. Washington, D.C. Division of Health Care Services, Institute of Medicine, 1995. pp. 141, 146-147.

Complaint Investigation

Program Instruction (AoA-PI-81-8). U.S. Department of Health & Human Services, Administration on Aging. January 19, 1981. pp. 21-22.

Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Institute of Medicine (IOM). Harris-Wehling, J., Feasley, J.C., Estes, C.L. Washington, D.C. Division of Health Care Services, Institute of Medicine, 1995. p. 142.

Report (Ombuds Offices). American Bar Association, Section of Administrative Law and Regulatory Practice. pp. 6-7.

Standards for the Establishment and Operation of Ombuds Offices. American Bar Association, Section of Administrative Law and Regulatory Practice. p. 3.

Training

The Long-Term Care Ombudsman Program: Rethinking and Retooling for the Future. Proceedings and Recommendations. National Association of State Long-Term Care Ombudsman Programs. April 2003. pp. 26-27.

Program Instruction (AoA-PI-81-8). U.S. Department of Health & Human Services, Administration on Aging. January 19, 1981. p. 36.

Systems Advocacy

Administration on Aging letter to Lea Nordlicht Shedd, Esq. and Judith Hoberman, Esq. November 8, 1996. pp. 5-6.

Frequently Asked Questions and Answers About The Long-Term Care Ombudsman Program Under the Older Americans Act, as Amended in 2000. U.S. Department of Health and Human Services, Administration on Aging. Updated August 2003. Questions 11, 37, 38.

The Long-Term Care Ombudsman Program: Rethinking and Retooling for the Future. Proceedings and Recommendations. National Association of State Long-Term Care Ombudsman Programs. April 2003. p. 21.

Program Integrity

Administration on Aging letter to Lea Nordlicht Shedd, Esq. and Judith Hoberman, Esq. November 8, 1996. pp. 6-7.

Effectiveness of the State Long Term Care Ombudsman Programs. A Report for the Henry J. Kaiser Family Foundations. Estes, C.L., Zulman, D.M., Goldberg, S.C., Ogawa, D.D. June 2001. p.19.

Frequently Asked Questions and Answers About The Long-Term Care Ombudsman Program Under the Older Americans Act, as Amended in 2000. U.S. Department of Health and Human Services, Administration on Aging. Updated August 2003. Questions 11, 37, 38.

The Long-Term Care Ombudsman Program: Rethinking and Retooling for the Future. Proceedings and Recommendations. National Association of State Long-Term Care Ombudsman Programs. April 2003. p. 17.

Program Instruction (AoA-PI-81-8). U.S. Department of Health & Human Services, Administration on Aging. January 19, 1981. pp 8-9.

Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Institute of Medicine (IOM). Harris-Wehling, J., Feasley, J.C., Estes, C.L. Washington, D.C. Division of Health Care Services, Institute of Medicine, 1995. pp. 93, 116-117, 125.

Report (Ombuds Offices). American Bar Association, Section of Administrative Law and Regulatory Practice. pp. 5-6.

Standards for the Establishment and Operation of Ombuds Offices. American Bar Association, Section of Administrative Law and Regulatory Practice. p. 3.

Conflict of Interest

Administration on Aging letter to A.E. Pooser. March 22, 1993.

Administration on Aging letter to Lea Nordlicht Shedd, Esq. and Judith Hoberman, Esq. November 8, 1996. pp. 4-7.

Administration on Aging letter to Mark A. Haverland. March 12, 2003.

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The Long-Term Care Ombudsman Program: Rethinking and Retooling for the Future. Proceedings and Recommendations. National Association of State Long-Term Care Ombudsman Programs. April 2003. p. 18.

Program Instruction (AoA-PI-81-8). U.S. Department of Health & Human Services, Administration on Aging. January 19, 1981. pp 8-9.

Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Institute of Medicine (IOM). Harris-Wehling, J., Feasley, J.C., Estes, C.L. Washington, D.C. Division of Health Care Services, Institute of Medicine, 1995. pp. 101-127.

Confidentiality

Administration on Aging letter to Sue Ward. August 28, 1998.

Administration on Aging letter to Virginia Fraser. March 3, 1998.

Best Practice Notes on Delivery of Legal Assistance to Older Persons. The Center for Social Gerontology, Inc. November 1998.

Frequently Asked Questions and Answers About The Long-Term Care Ombudsman Program Under the Older Americans Act, as Amended in 2000. U.S. Department of Health and Human Services, Administration on Aging. Updated August 2003. Questions 13-16.

Report (Ombuds Offices). American Bar Association, Section of Administrative Law and Regulatory Practice. pp. 7-8.

Standards for the Establishment and Operation of Ombuds Offices. American Bar Association, Section of Administrative Law and Regulatory Practice. pp 3-4.

Legal Resources

Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Institute of Medicine (IOM). Harris-Wehling, J., Feasley, J.C., Estes, C.L. Washington, D.C. Division of Health Care Services, Institute of Medicine, 1995. p. 96.

Fiscal Resources

Frequently Asked Questions and Answers About The Long-Term Care Ombudsman Program Under the Older Americans Act, as Amended in 2000. U.S. Department of Health and Human Services, Administration on Aging. Updated August 2003. Questions 28-36.

Program Instruction (AoA-PI-94-02). U.S. Department of Health & Human Services, Administration on Aging. April 5, 1994.

Relationships with Agencies/Entities/Individuals/Citizens' Groups/Others

Real People, Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Institute of Medicine (IOM). Harris-Wehling, J., Feasley, J.C., Estes, C.L. Washington, D.C. Division of Health Care Services, Institute of Medicine, 1995. p. 84.

Accountability

The Long-Term Care Ombudsman Program: Rethinking and Retooling for the Future. Proceedings and Recommendations. National Association of State Long-Term Care Ombudsman Programs. April 2003. p.20.