

# Ombudsman Program and Legal Assistance Collaboration

## Roles, Responsibilities, and Opportunities for Collaboration: Long-Term Care Ombudsman Program and Legal Assistance

Individuals receiving care and services in long-term care facilities may encounter challenges for which they need an advocate and legal support. Both the Long-Term Care Ombudsman program (LTCOP) and Legal Assistance Programs provide important support and advocacy for residents.

### **What are the distinct roles of the Long-Term Care Ombudsman Program (LTCOP) and the Legal Assistance Programs?**

#### **Long-Term Care Ombudsman Program**

The Ombudsman program advocates for residents of nursing homes, board and care homes, assisted living facilities and similar adult care facilities. State Ombudsmen and their designated program representatives work to resolve problems of individual residents and to bring about change at the local, state, and national levels that will improve residents' care and quality of life.

#### **Legal Assistance Programs**

Legal Assistance programs, including entities funded through Title IIIB of the Older Americans Act, provide critical access to legal support for older people with economic or social need to preserve their independence, choice, and financial security. Legal assistance provided may include access to public benefits, issues with guardians or agents under power of attorney, representation for individuals facing eviction from long-term care facilities, assistance with elder abuse, including fraud and financial exploitation, and more.

#### **Legal Assistance Developers**

Legal Assistance Developers are responsible for coordinating a state's legal assistance and elder rights programs. They incorporate Senior Legal Helplines and other mechanisms into statewide legal assistance delivery components that enable seniors to access quality legal assistance in priority issue areas that can include income security, health care financing, consumer fraud, housing, and elder abuse.

### **What does the LTCOP Rule say about Ombudsman program coordination with the Legal Assistance Developer and Legal Assistance programs?**

In regard to Ombudsman program coordination with other entities, including legal assistance programs

and legal assistance developers, the [LTCOP rule](#) says the following [45 CFR 1324.13 (h)]:<sup>1</sup>

(h) Memoranda of understanding. Through adoption of memoranda of understanding or other means, the Ombudsman shall lead State -level coordination, and support appropriate local Ombudsman entity coordination, between the Ombudsman program and other entities with responsibilities relevant to the health, safety, well-being, or rights of residents of long-term care facilities including:

**(1) The required adoption of memoranda of understanding between the Ombudsman program and:**

**(i) Legal assistance programs provided under section 306(a)(2)(C) of the Act (42 U.S.C. 3026(a)(2)(C)), addressing at a minimum referral processes and strategies to be used when the Ombudsman program and a legal assistance program are both providing program services to a resident;**

(ii) Facility and long-term care provider licensure and certification programs, addressing at minimum communication protocols and procedures to share information including procedures for access to copies of licensing and certification records maintained by the State with respect to long-term care facilities.

**(2) The recommended adoption of memoranda of understanding or other means between the Ombudsman program and:**

(i) Area agency on aging programs;

(ii) Aging and disability resource centers;

(iii) Adult protective services programs;

(iv) Protection and advocacy systems, as designated by the State, and as established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);

(v) The State Medicaid fraud control unit, as defined in section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q));

(vi) Victim assistance programs;

(vii) State and local law enforcement agencies;

(viii) Courts of competent jurisdiction;

**(ix) The State Legal Assistance Developer as provided under section 731 of the Act. (42 U.S.C. 3058j) and as set forth in subpart C to this part; and**

(x) The State mental health authority.

## **How can the two programs collaborate effectively for individuals receiving their services?**

State Ombudsmen, Legal Assistance Providers, and Legal Assistance Developers, have many opportunities for communication and coordination including:

- Establishing an understanding of their programs, including statute and regulatory language, populations services and priorities, residential or institutional service settings, geographical/service boundaries, staff and volunteer roles, etc.

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<sup>1</sup> 45 CFR 1324.13(h) of the [LTCOP Final Rule](#). Additional information is available on the [NORC website](#). Bold emphasis added by NORC.

- Creating a memorandum of agreement or partnership plan that includes:
  - Agreement regarding the handling of information and assistance calls and referrals between programs especially for
    - Legal assistance, and
    - Coordination of complaint investigations.
  - A process for sharing of information when appropriate (e.g., debriefing on complicated cases that involve multiple advocacy and service organizations with the goal of improving future collaborative efforts); sharing of information and reports.
- Sharing opportunities for
  - Joint trainings,
  - Invitations to each program’s trainings,
  - Curriculum and training resources, and
  - Coordinating systems advocacy.
- Considering representation on each program’s advisory boards, where applicable.
- Meeting annually to keep apprised of each other’s priorities. Identify means of coordination that would potentially increase advocacy opportunities available for seniors and persons with disabilities.
- Discussing systemic issues that impact individuals both programs serve and agreeing on action steps, even if the ways the agencies accomplish their tasks differ.



## Resources

### [National Long-Term Care Ombudsman Resource Center](#)

The National Long-Term Care Ombudsman Resource Center (NORC) provides support, technical assistance, and training to the 53 State Long-Term Care Ombudsman Programs and their statewide networks. NORC’s objectives are to enhance the skills, knowledge, and management capacity of the State programs to enable them to handle residents’ complaints and represent resident interests (in both individual and systemic advocacy). Funded by the U.S. HHS ACL AOA, the Center is operated by the National Consumer Voice for Quality Long-Term Care (Consumer Voice).

### [Legal Services Corporation](#)

Legal Services Corporation (LSC) is the largest funder of civil legal aid for low-income Americans in the nation, including elders. LSC was established in 1974 and operates as an independent 501(c)(3) nonprofit corporation. LSC provides grants for high-quality civil legal assistance to low-income Americans, and it distributes more than 90% of its funding to 134 independent nonprofit legal aid programs with more than 800 offices. Many cases involve protecting the elderly from being victimized by unscrupulous lenders or merchants, resolving complicated guardianship issues, and handling eviction disputes.



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