

3700 Long-Term Care Ombudsman Program

3701 Overview

- 3701.1** This section provides an outline of the Division of Aging and Adult Services operational policies and procedures for the Long-Term Care Ombudsman Program (LTCOP). This policy section is subject to change as additional information and/or regulations are received from the U.S. Department of Health and Human Services, ACL/AoA.
- 3701.2** The Division of Aging and Adult Services, through its contracts with the Area Agencies on Aging (AAA) shall develop, monitor and enforce policies and procedures governing the LTCOP. LTCOP services may be provided by contract with a regional public agency or a nonprofit organization.
- 3701.3** The LTCOP exists to protect the human and civil rights of residents of long-term care (LTC) facilities, and to promote autonomy through individual and collective advocacy efforts to enhance quality of life and care in LTC facilities. The LTCOP is a resident centered advocacy program.

3702 Authority and Statutory Requirement

3702.1 The LTCOP is authorized and governed by the following statutes and regulations:

- A.** Older Americans Act of 1965 (as amended in 2006) P.L. 106-501, §307(9), §711-13
http://www.aoa.gov/AoA_Programs/OAA/oa_full.asp
- B.** A.R.S. §46-452.01 and A.R.S. §46-452.02
<http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=46>
- C.** Division of Aging and Adult Services Long-Term Care Ombudsman Manual 2011
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/pdf/AAA-1188AMANNA.pdf>
- D.** Division of Aging and Adult Services Long-Term Care Ombudsman Volunteer Manual 2011
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/pdf/AAA-1189AMANNA.pdf>

3702.2 The AAA must ensure that providers comply with the following:

- A.** A fingerprint based criminal background check shall be completed at time of hire, or as a result of reassignment after hire, on employees and volunteers who have direct contact with vulnerable individuals, including those who are mentally disabled, frail, or have a chronic disease that puts them at risk for abuse (see A.R.S. §46-141). See also the Arizona Department of Economic Security Special Terms and Conditions - Professional Services/Optional Auto/Children-Vulnerable Adult/Bonding AAA, section 5.

3703 Operational Procedures for Ombudsman Services

3703.1 The LTCOP offers the following services:

- A.** Information and referral
- B.** Community education
- C.** In-service education to facility staff
- D.** Issues advocacy

3703.2 Provide a complaint resolution process which assures date of initial contact with a resident, resident representative, and/or the complainant, as appropriate, within 2 business days of receipt for all complaints received.

3703.3 Provide a complaint resolution process which assures the prioritization of handling urgent requests from complainants and the Office of the State Long-Term Care Ombudsman (OSLTCO).

3703.4 Follow established quarterly visitation schedules to include all LTC facilities within the AAA region or as established by contract.

3703.5 Provide technical support for the development of resident and family councils.

3703.6 Make referrals to other governmental and/or community agencies, as appropriate.

3703.7 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.

3703.8 Assist residents in identifying their rights under state and federal law and obtaining the rights and services to which they are entitled.

3703.9 Identify appropriate contractors of services and existing resources, and refer residents, complainants, and others to appropriate resources.

3703.10 Monitor referrals that are made to ensure service delivery.

3703.11 Assist residents and other individuals in removing barriers, including language and cultural barriers, which prevent them from meeting identified needs.

3703.12 Provide follow-up and coordination procedures that are standardized to ensure quality service delivery that is timely.

3703.13 Follow established procedures for recording client contacts and accepting individual complaints, concerns, and requests for assistance.

3703.14 Maintain and advertise a phone number for use by complainants.

3703.15 Promote the Regional LTCOP by providing information, technical assistance, and education in all LTC facilities and communities throughout the region to increase visibility of the program.

3703.16 Provide education, training, and technical assistance to citizen's groups, the general public, local volunteer groups, human services workers, LTC facility staff, and others involved in the LTC industry concerning residents' rights and related issues.

3704 Operational Procedures and Duties of the Regional Ombudsman Program Coordinator

3704.1 The Regional Ombudsman Program Coordinator (ROPC) will be limited in geographic scope to the area specified in the approved plan for the contracted service provider.

3704.2 In administering the Regional LTCOP, the ROPC is responsible for the following activities within a region:

- A.** Recruiting, screening, interviewing, selecting, training, testing, managing, and providing technical support to each Regional Ombudsman (RO) and Volunteer Ombudsman (VO) in the region.
- B.** Ensuring that each RO and VO follows related policies and procedures, rules, and laws of the program.
- C.** Ensuring that each RO and VO remains eligible for re-designation, and that all related documentation is maintained within the Regional Ombudsman Coordinator file, as required in this chapter.
- D.** Training will be provided to RO and VO at least annually on the Older Americans Act, to include updates on changes in the law.
- E.** Receiving, investigating, and resolving complaints.
- F.** Representing the interests of residents before government agencies to protect their health, safety, welfare and rights.
- G.** Seeking legal, administrative, and other remedies on behalf of residents.
- H.** Analyzing, commenting on, and monitoring the development of laws, regulations, policy and actions pertaining to LTC residents.
- I.** Supporting the development of resident and family councils.
- J.** Providing information, consultation, and education to residents, families, LTC facility staff, and to the greater community.
- K.** Making referrals to other governmental and/or community agencies, as appropriate.
- L.** Reporting program issues directly to the OSLTCO.

- M. Submitting monthly NORS database reports prior to or by the due date of the 25th of the following month, and ensuring the accuracy of the contents of these reports.
- N. Responding to request for information made by the OSLTCO in a timely fashion.
- O. Participating in scheduled conference calls and tri-annual meetings hosted by the OSLTCO.

3704.3 The ROPC may delegate the following duties to a representative of the OSLTCO within the region:

- A. Receiving, investigating, and resolving complaints.
- B. Representing the interests of residents before government agencies to protect their health, safety, welfare, and rights.
- C. Seeking legal, administrative, and other remedies on behalf of residents.
- D. Analyzing, commenting on, and monitoring the development of laws, regulations, policy, and actions pertaining to LTC residents.
- E. Supporting the development of resident and family councils.
- F. Providing information, consultation, and education to residents, families, LTC facility staff, and to the greater community.
- G. Making referrals to other governmental and/or community agencies, as appropriate.
- H. Recruiting, screening, interviewing, selecting, training, testing, managing, and providing technical support to each RO and VO.
- I. Participating in scheduled conference calls and tri-annual meetings hosted by the OSLTCO.

3705 Operational Procedures for Screening for Conflicts of Interest

3705.1 The organizational placement of the LTCOP and the individuals who carry out the duties of the Program must be free from Conflicts of Interest.

3705.2 Organizational Conflicts of Interest include, but are not limited to, placement of the LTCOP, or requiring that an LTCO perform conflicting activities, in an organization that:

- A. Is responsible for licensing, surveying, or certifying long-term care facilities;
- B. Is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities;
- C. Has ownership or investment interest in, or receives grants or donations from a long-term care facility;

- D. Has governing board members with any ownership, investment or employment interest in long-term care facilities;
- E. Provides long term care to residents of long-term care facilities or the operation of programs which control access to or services for long-term care facilities;
- F. Provides long-term care coordination or case management for residents of long-term care facilities;
- G. Sets reimbursement rates for long-term care facilities;
- H. Provides adult protective services;
- I. Is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities;
- J. Conducts preadmission screening for long-term care facility placements;
- K. Makes decisions regarding admission or discharge of individuals to or from long-term care facilities; or
- L. Provides guardianship, conservatorship, or other fiduciary or surrogate decision-making services for residents of long-term care facilities.

3705.3 Organizational Prohibited Conflicts of Interest (cannot be remedied):

- A. Is responsible for licensing, surveying, or certifying LTC facilities;
- B. Is an association (or an affiliate of such an association) of LTC facilities;
- C. Has any ownership, operational or investment interest in a LTC facility.

3705.4 Operational Procedures to disclose Organizational Conflicts of Interest

The Organization must:

- A. Take reasonable steps to avoid conflicts of interest;
- B. Report in writing any identified conflict of interest to the OSLTCO within one business day after identification of the conflict;
- C. The OSLTCO will review the conflict of interest to determine if a waiver can be given;
- D. Waivers will be determined on a case-by-case basis; and
- E. Written responses will be provided to the Organization within 30 days of receipt of request.

3705.5 Individual conflicts of interest for LTCO and members of their immediate family include, but are not limited to:

- A. Direct involvement in the licensing or certification of LTC facilities or of a provider of a long-term care service;
- B. Ownership, operational or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility or long-term care service;
- C. Employment of an individual by, or participation in the management of, a long-term care facility in the service area or by the owner or operator of any long-term care facility in the service area (or long-term care service);
- D. Receipt of, or right to receive, either directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a LTC facility
- E. Accepting gifts or gratuities of significant value from a long-term care facility or its management, a resident or a resident's representative of a long-term care facility in which the LTCO provides services except where there is a personal relationship with a resident or resident representative which is separate from the individual's role as LTCO
- F. Accepting money or any other consideration from anyone other than the Office, or an entity approved by the Ombudsman, for the performance of an act in the regular course of the duties of the LTCO without approval from the OSLTCO
- G. Serving as guardian, conservator or in another fiduciary or surrogate decision-making capacity for a resident of a long-term care facility in which the LTCO provides services
- H. Servicing residents of a facility in which an immediate family member resides
- I. Has the potential to undermine the impartiality of the LTCO because of the possibility of a clash between the LTCO self-interest, professional interest or public interest while providing services to residents of LTC settings.

3705.6 Individual Prohibited Conflicts of Interest (cannot be remedied):

- A. Has direct involvement in licensing, surveying, or certifying LTC facilities;
- B. Has any ownership, operational, or investment interest in a LTC facility;
- C. Is currently employed by or participating in the management of a LTC facility; and
- D. Receipt of, or right to receive remuneration from a LTC facility or its management.

3705.7 Each ROPC, RO, and VO shall sign a Conflict of Interest Statement form (Exhibit 3000D) prior to designation, and then again every 12 consecutive months, or when any change in status occurs. Copies of this form must be sent to the OSLTCO prior to designation and every 12 consecutive months thereafter, and at any time there is a change in status.

3705.8 The ROPC will report in writing any identified conflict of interest to the OSLTCO within one business day after identification of the conflict.

3705.9 The OSLTCO will review the conflict of interest to determine if a waiver can be given.

- A.** Waivers will be determined on a case-by-case basis.
- B.** Written responses will be provided to the ROPC within 30 days of receipt of the request.
- C.** For conflicts of interest that cannot be remedied or removed, the OSLTCO will issue a written response to the recipient, stating reasons for de-designation.

3706 Operational Procedures for access to a facility, resident, and resident records

3706.1 LTCO shall have timely access to:

- A.** Enter all long-term care facilities at any time during a facility's regular business or visiting hours; and at any other time when access may be required by the circumstances to be investigated;
- B.** All residents to perform LTCO functions and duties;
- C.** The name and contact information of the resident representative, if any, where needed to perform LTCO functions and duties;
- D.** Medical, social, and other records relating to a resident, if:
 - 1.** The resident or resident representative communicates informed consent to the access and the consent is given in writing or through the use of auxiliary aids and services;
 - 2.** The resident or resident representative communicates informed consent orally, visually, or through use of auxiliary aids and services, and such consent is documented contemporaneously by a LTCO;
 - 3.** Access is necessary in order to investigate a complaint, the resident representative refuses to consent to the access, a LTCO has reasonable cause to believe that the resident representative is not acting in the best interest of the resident, and the LTCO obtains the approval of the OSLTCO;
- E.** Long-Term Care Facility Administrative records, policies, and documents to which the residents have or the general public has access; and
- F.** Copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

3706.2 Health Insurance Portability and Accountability Act (HIPPA) does not preclude release by covered entities of resident private health information or other resident identifying

information to the LTCOP, including but not limited to residents' medical, social, or other records, a list of resident names and room numbers, or information collected in the course of a state or federal survey or inspection process.

3707 Operational Policy and Procedures for Complaint Processing

3707.1 Regardless of the complaint source, the LTCOP:

- A.** Serves the resident of the long-term care facility;
- B.** Shall investigate a complaint, including but not limited to a complaint related to abuse, neglect, or exploitation, for the purposes of resolving the complaint to the resident's satisfaction and of protecting the health, welfare, and rights of the resident.
- C.** Does not substantiated abuse, neglect, or exploitation; and
- D.** May identify, investigate, and resolve a complaint impacting multiple or all facility residents.

3707.2 The LTCOP must support and maximize resident participation in the resolution process as follows:

- A.** Offer privacy to the resident for the purposes of confidentiality;
- B.** Personally discuss the complaint with the resident in order to:
 - 1.** Determine the resident's perspective of the complaint;
 - 2.** Request the resident to communicate informed consent in order to investigate the complaint;
 - 3.** Determine the wishes of the resident with respect to resolution of the complaint, including whether the allegations are to be reported and, if so, whether the Ombudsman may disclose resident identifying information or other relevant information to the facility and/or appropriate agencies;
 - 4.** Advise the resident of the resident's rights;
 - 5.** Work with the resident to develop a plan of action to resolve the complaint;
 - 6.** Investigate the complaint to determine whether the complaint can be verified; and
 - 7.** Determine whether the complaint is resolved to the satisfaction of the resident.
- C.** Serving residents who are unable to communicate informed consent:
 - 1.** The LTCOP can work with an appropriate resident representative to communicate or make determinations on behalf of the resident related to

complaint processing, but the extent of the authority that has been granted to the resident representative under court order, by power of attorney, or other document by which the resident has granted authority to the representative, or under other applicable state or federal law, must be determined.

2. If the resident is unable to communicate informed consent, and has no resident representative available to do so, the LTCOP:
 - a. works to resolve the complaint in order to protect the resident's health, safety, welfare, and rights; and
 - b. determines whether the complaint was resolved to the satisfaction of the complainant

3707.3 The LTCOP may provide information regarding the complaint to another agency in order for such agency to substantiate the facts for regulatory, protective services, law enforcement or other purposes so long as the LTCOP adheres to the disclosure requirements. See Section 3706.7

3708 Operational Procedures for the Disclosure of Files, Records, and Other Information Maintained by the LTCO

3708.1 Disclosure of files, record, and other information maintained by the LTCO, including the name of a resident or a complainant with whom the program has had intervention, is confidential information and may be revealed only under the following circumstances:

- A. The resident, resident representative, or complainant gives consent to the disclosure in writing; or through use of auxiliary aids and services;
- B. The complainant, resident, and/or resident representative gives consent orally or through the use of auxiliary aids and services and such consent is documented contemporaneously by a LTCO on the Division of Aging and Adult Services Case Notes form (see Exhibit 3700B); or
- C. The disclosure is required by court order.

3708.2 Residents, complainants, and/or resident representatives may be asked to complete the Division of Aging and Adult Services Authorization for Release of Confidential Information and Representation form prior to disclosure of information (Exhibit 3700A).

3708.3 Subpoenas received by a Regional LTCOP shall be faxed to the OSLTCO within one business day of receipt by the ROPC. The original document shall be sent to the OSLTCO thereafter.

- A. Representatives of the OSLTCO shall not discuss with the requesting attorney, his/her staff, or any other inquirer, any information requested in the subpoena or any information related to the case, including the extent of the LTCOP's involvement in the case.

- B.** The OSLTCO will, upon receipt of the subpoena, forward it to the Office of the Attorney General State of Arizona, Child and Family Protection Unit within one business day for processing.

3708.4 Court orders received by a ROPC Coordinator, RO, or VO shall be faxed to the OSLTCO within one business day of receipt. The original document shall be sent to the OSLTCO thereafter. The OSLTCO will contact the Office of the Attorney General State of Arizona, Child and Family Protection Unit regarding the processing of the court order.

3708.5 Disclosure Procedures for Complaint Processing:

- A.** Information regarding a complaint may be provided to another agency to substantiate facts for regulatory, protective services, law enforcement, or other purposes so long as the LTCOP adheres to the following disclosure requirements:
 - 1.** Resident or resident representative goals are for regulatory, protective services or law enforcement action, and the resident or resident representative has communicated informed consent to the LTCOP. The LTCOP must assist the resident or resident representative in contacting the appropriate agency and/or disclose the information to the appropriate agency; and
 - 2.** Resident or resident representative goals can be served by disclosing information to a facility representative and/or referrals to an entity other than regulatory, protective service, or law enforcement action. The LTCOP may assist the resident or resident representative in contacting the appropriate facility representative/entity, provide information how the resident or resident representative may obtain contact information of such facility representative or entities or disclose the information for which the resident has provided consent to an appropriate facility representative or entity.
- B.** The LTCOP shall not report suspected abuse, neglect, or exploitation when the resident has not communicated informed consent, despite the state's mandatory abuse reporting law.
- C.** The LTCOP may refer the matter and disclose resident-identifying information without consent to appropriate agencies for regulatory oversight, protective services, access to administrative, legal or other remedies, and/or law enforcement action in the following circumstances:
 - 1.** The resident is unable to communicate informed consent to the LTCO;
 - 2.** The resident has no resident representative;
 - 3.** The LTCO has reasonable cause to believe that an action, inaction or decision by the resident representative may adversely affect the health safety welfare or rights of the resident;

4. The LTCO has no evidence indicating that the resident would not wish a referral to be made;
5. The LTCO has reasonable cause to believe that it is in the best interest of the resident to make a referral;
6. The ROPC obtains the approval of the OSLTCO.

3708.6 Disclosure procedures when the LTCO personally witnesses suspected abuse, gross neglect, or exploitation of a resident:

- A. The LTCO shall report suspected abuse, gross neglect, or exploitation, open a case, follow the complaint resolution procedures, refer the matter, and disclose identifying information to the management of the facility where resident resides and/or to agencies for substantiation of abuse, gross neglect, or exploitation when:
 1. LTCO has received informed consent from the resident or resident representative, when resident is unable to give informed consent, to disclose identifying information to appropriate agencies; or
 2. The resident is unable to communicate informed consent and has no resident representative available to provide informed consent so long as:
 - a. there is no evidence indicating resident would not wish disclosure;
 - b. the Ombudsman has reasonable cause to believe that disclosure would be in the best interest of the resident; and
 - c. the ROPC obtains the approval of the OSLTCO.

3709 Operational Procedures for Ombudsman Legal Representation & Liability

- 3709.1** The official duties as specified in the Arizona Revised Statute and the Older Americans Act of 1965, when performed in good faith, are considered state conduct or action. Official duties are as defined in the Older Americans Act of 1965, as amended in 2000, §712 (a) (5) (A) and (B). Official duties are also those as defined in A.R.S. §46-452.02.B.
- 3709.2** Representatives of the OSLTCO performing actions of official duties of their position are provided state legal representation.
- 3709.3** Representatives of the OSLTCO performing action outside of the official duties specified will be interpreted as performing unauthorized action.
- 3709.4** Representatives of the OSLTCO performing unauthorized action are not provided state legal representation and may be open to personal liability.
- 3709.5** Representatives of the OSLTCO performing unauthorized action may be subject to de-designation, as described in Section 3711.

3710 Operational Procedures for Ombudsman Designation

37010.1 During the application process and before beginning training, the ROPC, or his or her designee, shall conduct an interview with each applicant during which the applicant will be informed of the long-term care ombudsman role and responsibilities and the following will be reviewed: the Conflict of Interest Statement, all requirements for designation and re-designation, program policies regarding de-designation, and all other expectations of the program. For an applicant applying to be a VO, the ROPC must ensure that at least three reference checks have been performed with use of the Volunteer Reference Check form and that the applicant has completed the Volunteer Application form (Exhibits 3700I and 3700G). These files are to be maintained by the Regional LTCOP.

3710.2 The following are program requirements for designation:

- A.** Satisfactory completion of all training and testing requirements as described in Section 3709;
- B.** Freedom from conflict of interest as demonstrated by signing the Conflict of Interest Statement form (Exhibit 3700D);
- C.** Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the U.S. Centers for Disease Control and Prevention (CDC) administered within 12 months before the date the individual begins providing services that includes the date and the type of tuberculosis screening test; or, if the individual had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the individual is free from infectious tuberculosis signed by a medical practitioner dated within 12 months before the date the individual begins providing services. This documentation or statement shall be maintained by the Regional LTCOP. This applies to each ROPC, RO, and VO that expects to have direct interaction with a resident for more than eight hours per week. The ROPC retains the right to require initial testing of all VO applicants within his or her region prior to designation;
- D.** Completion of a fingerprint criminal history background check as defined by A.R.S. §46-141; and
- E.** Completion of all required state and AAA paperwork, including completion of the Volunteer Commitment form (Exhibit 3700J).

3710.3 The ROPC, or his or her designee, shall submit the completed Ombudsman Designation Checklist (Exhibit 3700C) and the Conflict of Interest Statement (Exhibit 3700D) to the OSLTCO certifying that all program requirements have been met by the applicant.

3710.4 When all requirements have been met and the necessary documents have been received, the OSLTCO may designate the applicant as a representative of the OSLTCO.

3710.5 The OSLTCO will issue by mail a state of Arizona photo identification badge to the ROPC which is to be carried at all times while acting as a representative of the OSLTCO.

3711 Operational Procedures for Initial Ombudsman Training and Testing

3711.1 The OSLTCO will develop and keep current a uniform core training curriculum based on model standards as established by the National Ombudsman Resource Center and as supported by the Administration on Aging. The minimum 16-hour core curriculum shall consist of the following content:

- A. LTC Ombudsman Program Responsibility;
- B. History and Roles of the Program;
- C. Ethics;
- D. Gerontology/Aging Process and Common Illnesses and Conditions;
- E. Mental Illness, Dementia, and Substance Abuse Problems;
- F. Developmental and Physical Disabilities;
- G. LTC System;
- H. Legal Systems;
- I. Regulatory Requirements of LTC Settings;
- J. Resident Rights;
- K. Communication;
- L. Techniques of Complaint Process/Investigation;
- M. Federal and State applicable Laws and Regulations;
- N. Problem Solving and Resolution;
- O. Medicare and Medicaid;
- P. Confidentiality of Records;
- Q. Resident Records;
- R. Community Resources;
- S. Documentation;
- T. NORS Data Reporting / DES LTC Ombudsman Database;
- U. Volunteerism (applies only to ROPCs); and
- V. Maintaining Ombudsman Records (applies only to ROPCs).

3711.2 The OSLTCO will develop, keep current, and provide to ROCPs, the Ombudsman Designation Examination, a uniform examination based on model standards established by the National Ombudsman Resource Center and supported by the Administration on Aging.

- 3711.3** For the purposes of designation, initial training and testing of ROPCs will be provided by the OSLTCO.
- 3711.4** For the purposes of designation, initial training and testing of ROs and VOs will be provided by ROPCs.
- 3711.5** Applicants must pass the Ombudsman Designation Examination with a score of at least 70 points. The Ombudsman Designation Examination must be passed within three months of completion of the initial 16 hours of core-curriculum training. Applicants may take the test no more than two times during this period to achieve the required minimum score. Requests for reasonable accommodations shall be sent to the OSLTCO by ROPCs and the OSLTCO will provide reasonable accommodations where appropriate.
- 3711.6** ROPCs will provide a minimum of 16 hours of core-curriculum training and four hours of in-the-field training to the applicant.
- 3711.7** The ROPC will use the Ombudsman Designation Checklist (Exhibit 3700C) and Training Record (see Exhibit 3700H) for each individual. This original record is to be placed in the individual's personnel file along with graded Ombudsman Designation Examination(s). Copies of the completed Ombudsman Designation Checklist and the Conflict of Interest Statement are to be sent to the OSLTCO for designation consideration.
- 3711.8** Use of the National Ombudsman Resource Center Online Curriculum during the initial training process is left the discretion of each Regional LTCOP. If utilized, this training may be counted as 5 of the 16 hours of core curriculum training, and should be documented in each applicant's Training Record (Exhibit 3700H). Use of this training does not diminish a ROPCs responsibility to ensure that all core curriculum training has satisfactorily provided.

3712 Operational Procedures for Ombudsman Re-Designation

- 3712.1** The following are program requirements for re-designation, which shall occur during the twelfth month after initial designation and then again during every 12 consecutive months:
- A.** Remain free of conflict of interest as evidenced by reviewing and signing the Conflict of Interest Statement (Exhibit 3700D) if a change in status occurs or at least once every 12 consecutive months.
 - B.** Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the CDC administered to the individual within 30 calendar days before or after the anniversary date of the most recent tuberculosis screening test or written statement that includes the date and the type of tuberculosis screening test; or, if the individual has had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the individual is free from infectious tuberculosis signed by a medical practitioner dated within 30 calendar days before or after the anniversary date of the most recent tuberculosis screening test or written statement. This documentation or statement shall be maintained by the Regional LTCOP. This applies to each ROPC and RO, and VO that expects to

have direct interaction with a resident for more than eight hours per week. The ROPC retains the right to require annual testing of all designated VOs within his or her region.

- C.** Each RO and VO shall complete at least eight hours of in-service training annually. This training will be provided and/or approved in advance by the ROPC for each region.
- D.** Each ROPC shall complete at least 12 hours of in-service training annually.
- E.** Each ROPC and RO shall attend at least one outside training each year to increase knowledge and networking capabilities. Proof of outside training completion must be maintained by the Regional LTCOP.
- F.** Continue to demonstrate the ability to carry out the duties of the office.
- G.** All representatives of the OSLTCO must remain in compliance with federal and state law, local policies and procedures, and LTCOP Policies and Procedures.

3712.2 The ROPC and the OSLTCO shall work together to provide opportunities to meet the required eight hours of annual in-service training for each RO and VO.

3712.3 The ROPC shall submit to the OSLTCO a completed Ombudsman Re-designation Checklist (Exhibit 3700L) which certifies that all re-designation requirements have been met by the representative of the OSLTCO within that region, along with a copy of the completed Conflict of Interest Statement form (Exhibit 3700D), no later than 12 consecutive months following designation or re-designation.

3712.4 All training, including any outside training, is to be outlined on a Training Record form (Exhibit 3700H) for each representative of the OSLTCO, and is to be maintained by the Regional LTCOP.

3712.5 The ROPC may elect to allow a VO to take a leave of absence, for a variety of reasons, and, if so, shall document the terms of this leave of absence and shall attach the documentation to the Volunteer Commitment form (Exhibit 3700J).

3712.6 The ROPC shall utilize the Volunteer Performance Evaluation form with each VO no later than six months after designation, and again upon annual re-designation (Exhibit 3700K). These completed forms are to be maintained by the Regional LTCOP.

3712.7 In the event that a RO or VO does not meet all requirements for re-designation as listed in this chapter within two months following the month of re-designation, the ROPC shall place the RO or VO on an evaluation period until all requirements are met. During this evaluation period, which may last no more than one month, the RO or VO may not represent the LTCOP in any way or perform actions of official duties of the position. If, at the end of the period, program requirements for re-designation are still not met, the ROPC must complete the Ombudsman De-designation Recommendation form and send it to the OSLTCO immediately.

3712.8 In the event that a ROPC does not meet all requirements for re-designation, the OSLTCO will contact the ROPC and/or the AAA to remedy the situation.

3713 Operational Procedures for Ombudsman De-designation

3713.1 The ROPC and/or the AAA may recommend de-designation of a RO or VO to the OSLTCO. Any representative of the OSLTCO may voluntarily resign from the LTCOP.

3713.2 No representative of the OSLTCO shall be de-designated without cause. Actions that may result in de-designation include the following, but are not limited to:

- A.** Failure of the individual to meet and/or maintain the criteria for certification;
- B.** Deliberate failure of the individual to disclose any conflict of interest or the existence of an un-remedied conflict of interest;
- C.** Violation of confidentiality requirements;
- D.** Failure to provide adequate and appropriate services to LTC residents;
- E.** Falsification of records; and
- F.** Failure to act in accordance with applicable federal and state laws, rules, regulations, and policies.

3713.3 The ROPC or AAA will submit a written recommendation utilizing the Ombudsman De-designation Recommendation form (Exhibit 3700M), that includes any and all remedial actions that have been implemented and the results from such attempted actions, with any relevant documentation, to the OSLTCO.

3713.4 When the Ombudsman De-designation Recommendation form and any related documentation is received, the OSLTCO will consult with the ROPC and/or the AAA to discuss the recommendation, and may request that other remedial actions be put in place to prevent de-certification.

3713.5 If an attempt at remedial action is unsuccessful and cause still exists, the OSLTCO may de-designate, as appropriate, and will inform the ROPC and/or the AAA of this action in writing. The OSLTCO will provide written notice to inform the de-designated representatives of the OSLTCO that cause has been established and set forth the effective date of the de-designation. The notice will include a grievance process for the receipt and review of grievances regarding the determinations of the OSLTO.

3713.6 If the de-designation results in the absence of LTCOP services in a service area, the OSLTCO and ROPC and/or the AAA shall arrange for the provision of LTCOP services until the absence is filled.

3713.7 The ROPC and/or AAA must ensure that a de-designated representative abides by the following:

- A. Surrender the state of Arizona Ombudsman photo identification badge immediately to the ROPC and/or the AAA. The ROPC and/or the AAA shall return the surrendered badge to the OSLTCO;
- B. Cease to identify himself/herself as representative of the OSLTCO; and
- C. Maintain confidentiality regarding events witnessed and/or experienced while performing duties as a representative of the OSLTCO.

37183.8 The OSLTCO will have the authority to de-designate a ROPC, RO, or VO when cause has been determined and the AAA has been unable to remedy the situation.

3714 Complaint, Administrative Review, and Appeals

3714.1 This provides an outline for the Division of Aging and Adult Services operational principles and procedures on minimum standards that must be included in policies and procedures developed by Area Agency on Aging which address an individual or their responsible person's (hereafter referenced as individual) complaint, administrative review, and appeals process. This policy is subject to change based upon revisions of the Arizona Administrative Code.

3715 Operational Procedures for Area Agency on Aging Requirements

3715.1 Area Agency on Aging shall develop and maintain policies and procedures which address complaints, complaint resolutions, and appeals procedures filed by individuals who apply for or receive services funded under an approved Area Plan on Aging.

3715.1 Area Agency on Aging shall develop and maintain policies and procedures which address complaints, complaint resolutions, and appeals procedures filed by individuals who apply for or receive services funded under an approved Area Plan on Aging.

3715.2 Area Agency on Aging shall ensure that the policies and procedures include the following components:

- A. Information about the individual's legal rights regarding making a complaint(s) arising from the delivery of services, including, but not limited to: ineligibility determination, reduction of services, suspension or termination of services, or for the quality of services. The Area Agency on Aging or entity that such agency has contracted with (hereafter referenced as service providers), must provide written notification of these rights and applicable procedures to individuals who apply for or receive services funded under an approved Area Plan on Aging;
- B. The opportunity to exercise appeal rights as defined by applicable laws, rules, and regulations. The Area Agency on Aging or service provider must provide written notification of these rights and applicable procedures to individuals who apply for or receive services funded under an approved Area Plan on Aging;
- C. Assistance in making informed decisions regarding this process;

- D. Written notification that service provision will not be reduced, suspended, or terminated prior to a hearing decision from the appropriate hearing entity, if applicable, unless termination, suspension, or reduction was due to funding no longer being available or it was determined that the personal safety of workers providing services was at risk. See also Section 3127.3; and
- E. Written documentation of the complaint, attempts to resolve, and outcome of the complaint and/or appeal must be retained in the individual's file at the Area Agency on Aging and/or service provider.

3716 Operational Procedures for Complaints

3716.1 An Area Agency on Aging shall establish, and monitor that service providers also adopt, written procedures for which to accept a client complaint and the process for which resolution is to be achieved. The written procedure shall be given to clients.

The procedure should include the following components:

- A. Allow for a client to attempt to resolve complaints at the level where the incident occurred, which may include an opportunity for an informal meeting to resolve the complaint;
- B. If the client's complaint is with the service provider, the client shall first file a written complaint with that service provider within 15 days. The service provider shall respond to the complaint in writing within 30 days;
- C. If the service provider takes no action to resolve the complaint within 30 days, or if the client perceives the complaint is unsatisfactorily resolved, the client shall file a complaint in writing to the Area Agency on Aging within 15 days from the issuance of the service provider's written response;
- D. Upon receipt of a client complaint, the Area Agency on Aging will objectively review and investigate the complaint, and attempt to resolve the complaint informally. If an informal resolution cannot be reached, the Area Agency on Aging shall issue its written decision within 30 days of the date the complaint was filed with the Area Agency on Aging; or

If the client's complaint is with the Area Agency on Aging, the Area Agency on Aging will attempt to resolve the complaint informally. If an informal resolution cannot be reached, the Area Agency on Aging shall issue its written decision within 30 days of the date the complaint was filed with the Area Agency on Aging;
- E. If the Area Agency on Aging takes no action to resolve the complaint within 30 days, or if the client perceives the complaint is unsatisfactorily resolved, the client shall file a request for Administrative Review from the DES, Division of Aging and Adult Services Assistant Director within 30 days from the issuance of the Area Agency on Aging's written response, in accordance with section 1923.1; and

- F. Written documentation of the complaint, attempts to resolve the complaint and outcome must be documented in the individual's file at the Area Agency on Aging and/or service provider.

3717 Operational Procedures for an Administrative Review resulting from a Complaint or Service Provider

3717.1 If no resolution to the complaint at the Area Agency on Aging level is possible as identified in section 1922, the individual or service provider has the right to file a request for an Administrative Review with the Department of Economic Security, Division of Aging and Adult Services Assistant Director, or designee. An Area Agency on Aging may also request an Administrative Review if the Division disapproves an Area Plan or plan amendment or to withdraw the Area Agency on Aging's designation.

- A. The request for an administrative review must be submitted in writing to the Department of Economic Security within 30 days after the mailing date of the Area Agency on Aging's decision. The request shall be directed to:

Assistant Director
Division of Aging and Adult Services Department of Economic Security,
P.O. Box 6123 Phoenix, Arizona 85005

- B1. If the Administrative Review is requested by the individual, the Division's Assistant Director or designee shall schedule an administrative review conference to meet with the individual and the service provider and/or Area Agency on Aging. At the administrative review conference, the parties involved may review pertinent evidence on which the action was based; or
- B2. If the Administrative Review is requested by the service provider, the Division's Assistant Director or designee shall schedule an administrative review conference to meet with the services provider and the Area Agency on Aging. At the administrative review conference, the parties involved may review pertinent evidence on which the action was based; or
- B3. If the Administrative Review is requested by the Area Agency on Aging, the Division's Assistant Director or designee shall schedule an administrative review conference to meet with the Area Agency on Aging. At the administrative review conference, the Area Agency on Aging may review pertinent evidence on which the action was based;
- C. The Division's Assistant Director or designee shall issue a decision in writing within 60 days of the filing of the request for administrative review;

- D. The written determination and related documentation will be maintained by the Department of Economic Security, Division of Aging and Adult Services in accordance with its record retention policy.

3718 Operational Procedures for Appeals and Hearings

Operational Procedures for Appeals and Hearings

The individual has the right to appeal the Department of Economic Security, Division of Aging and Adult Services decision and request a hearing in accordance with Arizona Administrative Code R6-5-2404. The request shall be directed to:

Assistant Director
Division of Aging and Adult Services
Department of Economic Security
P.O. Box 6123 Phoenix, Arizona 85005

3719 Operational Procedures for Ombudsman Reporting Requirements

- 3719.1** The AAA shall collect program data and ensure the maintenance of records as defined in the Aging and Adult Administration Policy Section 1600.
- 3719.2** All representatives of the OSLTCO shall utilize all program forms appropriately as specified within this chapter, and/or by the OSLTCO, and any other form as requested by the OSLTCO.
- 3719.3** Collect accurate data for needs assessments, program evaluation, and reporting.
- 3719.4** Input information from each Ombudsman Case form (Exhibit 3700F) into the web-based DES LTC Ombudsman Database no later than the end of the month in which the case was closed.
- 3719.5** Complete Monthly Data Collection Reports (Exhibit 3700E) and input information from this report into the web-based DES LTC Ombudsman Database no later than the 25th of the following month.
- 3719.6** Maintain compliance with the National Ombudsman Reporting System and Arizona state reporting requirements to collect and analyze data relating to complaints and conditions in LTC facilities.
- 3719.7** Provide other reports to the OSLTCO, as requested.

EXHIBITS

- 3700A** Authorization for Release of Confidential Information and Representation
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/pdf/AAA-1054AFORNA.pdf>
- 3700B** Case Notes
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/AAA-1064AFORFF.DOC>
- 3700C** Ombudsman Designation Checklist
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/AAA-1184AFORFF.doc>
- 3700D** Conflict of Interest Statement (Revised)
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/pdf/AAA-1059AFORNA.pdf>
- 3700E** Monthly Data Collection Report
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/AAA-1048AFORFF.doc>
- 3700F** Ombudsman Case
<https://www.azdes.gov/InternetFiles/IntranetProgrammaticForms/doc/AAA-1163AFORFF.doc>
- 3700G** Volunteer Reference Check
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/AAA-1179AFORNA.doc>
- 3700H** Training Record
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/AAA-1178AFORFF.DOC>
- 3700I** Volunteer Application
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/AAA-1180AFORFF.doc>
- 3700J** Volunteer Commitment
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/pdf/AAA-1050AFORNA.pdf>
- 3700K** Volunteer Performance Evaluation
<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/AAA-1204AFORFF.doc>
- 3700L** Re-Designation Checklist

<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/AAA-1253AFORFF.doc>

3700M Ombudsman De-Designation Recommendation

<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/AAA-1254AFORFF.doc>

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