

Overview

The following policies and procedures define the roles, responsibilities, and relationships within the Pennsylvania Department of Aging (PDA), the Office of the Long-Term Care Ombudsman (Office), Area Agencies on Aging (AAAs) and when indicated the Local Ombudsman Entities (LOEs) as contracted by the AAAs in support of the Ombudsman Program.

The PA Department of Aging (PDA) in accordance with the [Older Americans Act, 42 U.S.C. Section 3001](#) et seq. [Public Law 109-365, Title VII, Chapter 2, Sections 711 to 713](#), Federal regulations 45 CFR Parts [1321](#) and [1324](#) and PA Code 6, Aging, established the Office of the Long-Term Care Ombudsman. This Office is responsible to carry out all of the functions and responsibilities of the ombudsman program. The Office shall assure that all residents of Pennsylvania long-term care communities have access to the services of the Office and that every area of the Commonwealth has designated regional support.

The Office shall be headed by a State Long-Term Care Ombudsman who personally or through designees carries out the functions of the Office.

Local ombudsman services may be delivered through the Office or through contracted entities and/or individuals designated by the Office and shall be operated through a contract with PDA, an Area Agency on Aging (AAA) or other nonprofit organization.

These policies and procedures govern the operations of the Office and establish the relationships and responsibilities of the AAAs and/or their contracted LOEs, where applicable, and the Pennsylvania Department of Aging/State Unit on Aging, in relation to the Office.

I. A. Area Agency on Aging

1. Designation and De-designation

a. Criteria for Designation as a LOE

An entity that delivers local ombudsman services to consumers of long-term care within a designated service area is called a Local Ombudsman Entity, or LOE.

The services of an LOE include, but are not limited to:

- Identification, investigation and resolution of complaints on behalf of long-term care consumers. Maintaining a regular presence in long-term care communities.
- Provision of information and assistance and community education.
- Issues advocacy.
- Development of resident and family councils.
- Resident engagement activities for each fiscal year and meet benchmark measures set by the Office.

In order for a AAA to be eligible for designation by the State Ombudsman as a Local Ombudsman Entity (LOE), the organization must:

- Be a local government or not-for-profit entity.
- May not be responsible for licensing or certifying long-term care services.

- May not be an association (or an affiliate of an association) of providers of long-term care or residential services.
- Have no financial interest in a long-term care facility.
- Have demonstrated capability to carry out the responsibilities of the LOE.
- Have a clearly definable unit to function as the LOE.
- Be free of conflicts of interest (as defined by [§1324.21](#) and the OAA) and not stand to gain financially through an action or potential action brought on behalf of individuals the local ombudsman serves.
- Have no un-remedied conflict of interest.
- Meet all applicable requirements of the Pennsylvania Department of Aging and the Office.

The LOE must have the capacity and ability to administer the duties of the Office in a manner compliant with both federal and state laws and regulations.

This includes compliance with fiscal requirements as well as programmatic requirements, including addressing any conflicts of interest. The agency or entity must demonstrate commitment to the goals of the program by providing adequate support and resources.

The AAA must complete an organizational conflict of interest form annually to maintain its status as an LOE. If it is determined that the AAA has a conflict of interest which cannot be remedied, then the entity may not be designated as an LOE and must subcontract ombudsman services.

b. Designation of an AAA as the LOE

Pennsylvania law establishes that the Area Agencies on Aging are the contracted entities for all Older Americans Act services, including provision of long-term care ombudsman services at the local level.

As such, they are recognized as the entities responsible for provision of long-term care ombudsman services at the local level, except where they have conflicts of interest that cannot be remedied or choose to subcontract those services to an eligible organization.

Where a AAA meets all criteria and seeks to serve as the LOE, designation shall occur.

Through its Area Agency on Aging 4-Year Plan, the AAA will incorporate the following:

- The goals and objectives in providing ombudsman services.
- A description of how each component of the Office shall be met.
- The staffing plan for the LOE.
- A description of the human and fiscal resources required for the operation of the Office.

- A description of the recruitment of anticipated volunteers and any challenges anticipated in the implementation of services of the Office.
- A description of the process by which the LOE will coordinate with the State Ombudsman in the employment or appointment of local ombudsmen.
- As of the effective date of these policies and procedures, any entity providing ombudsman services under an existing agreement with the Pennsylvania Department of Aging is designated as a LOE for the period of the existing contract.

c. Designation of LOE, where the AAA chooses to Sub-contract Services

Where an AAA contracts with a local agency to be the LOE, the designation of the LOE shall occur as follows:

- 1) The AAA shall issue a request for proposal (RFP) developed by the AAA seeking an entity to provide the services of the Office within its service area. An RFP process assures transparency in the use of federal funds.
- 2) Service components of the LOE should include, but are not limited to:
 - Identification, investigation and resolution of complaints by or on behalf of residents.
 - Regular presence in long-term care communities.
 - Community education.
 - Individual and systems advocacy.
 - Support development of resident and family councils.
 - Support development of PEER in long-term care communities.
 - Set service activities for each fiscal year.
 - Meet or exceed any benchmark measures set by the Office.
 - Activities of the designated local programs shall be evaluated by the AAA and the Office on a regular basis.

The LOE agency shall be responsible for the personnel management, but not the programmatic oversight of the services of the Office.

- 1) The AAA shall request, at a minimum:
 - As part of the RFP packet, the potential LOE will provide a document of assurance that the entity meets all criteria for designation as a LOE.
 - The RFP packet must include all the requirements of a conflict-free entity of services, the details of staffing requirements as forth by the Office, the amount of funding needed to provide the services with line items for staffing, travel, training, volunteer and PEER recruitment, retention and recognition; and a plan to issue funds for the volunteer/PEER activities.

The AAA shall assure that the local organization meets the program standards and criteria set forth in the RFP. If it is determined that the applying entity has an un-remedied conflict of interest, such entity cannot be selected as the LOE.

The AAA shall recommend an entity for designation as a LOE to the Office and shall provide the Office with information supporting its recommendation. If the State Ombudsman agrees with the AAA recommendation, the State Ombudsman shall notify the AAA of its designation determination within 15 days of receiving the AAA's recommendation. The State Ombudsman shall notify the AAA director of all designation decisions. The AAA shall notify the responding entities of the State Ombudsman's designation decision within fifteen (15) days of receiving such notification.

Should the State Ombudsman identify any concerns with the AAA recommendation, the State Ombudsman will meet with the AAA to discuss the decision and attempt to reach an agreement. If an agreement is reached, the State Ombudsman shall notify the AAA of its designation determination, and the AAA shall notify the responding entities of the State Ombudsman decision.

In the event an agreement cannot be reached, the State Ombudsman will review a summary of the recommendation rationale. The State Ombudsman will render a final designation decision. The AAA shall notify the responding entities of the State Ombudsman's decision. The AAA notification shall include notice of the right to appeal the designation decision pursuant to the procedures of the Office.

Once the State Ombudsman reviews the subcontract for all required elements and affirms that there are no conflicts of interest, the AAA shall enter into a contract with the chosen agency for the provision of services of the Office in the relevant service area. Such contract must:

- Specify the service area.
- Require the chosen agency to adhere to all applicable federal and state laws, regulations and policies.
- Provide that designation by the State Ombudsman continues for the duration of the contract and subsequently renewed contracts within the period specified within the RFP unless the chosen agency is de-designated or the contract is terminated for cause.

d. De-Designation of Area Agency on Aging as a LOE

Where an AAA serves as a LOE, the process to de-designate shall be as follows:

- If all other efforts to establish LOE compliance have been exhausted, the State Ombudsman shall send written notice of the intent to de-designate the AAA as an LOE. The notice shall include the reasons for withdrawal of designation, effective date of decision, and notice of PDA com procedures.
- Withdrawal of designation of the AAA as a LOE shall not become effective until all appeals are exhausted.
- The appeals process is as follows: The LOE receives notice from the State Ombudsman, and the LOE may:

- Request further review of the decision by the State Ombudsman.
- The LOE may provide additional information pertinent to the decision.
- Upon review, final decision by the State Ombudsman stands.
- The AAA and the State Ombudsman shall jointly agree for the continuation of ombudsman services until designation of another entity is effective.
- PDA will terminate the portion of the contract between the AAA and the PDA which provides for services of the Office.

e. De-Designation of a LOE in subcontract with AAA

Where an AAA contracts with a LOE agency, the process to de-designate the LOE shall be as follows:

- If all other efforts to establish LOE compliance have been exhausted, the State Ombudsman should send notice of the intent to de-designate on a specified date to the AAA and the LOE.
- The notice shall include the reasons for withdrawal of designation and notice of appeal procedures of PDA.
- In the case of a suspension of services, indicate the circumstances under which the suspension will end or be reconsidered.
- Reconsideration may occur where the LOE is in the process of coming into compliance, for example, when coming into compliance with reporting or conflict of interest.

The appeals process shall be as follows: Where LOE receives notice from the State Ombudsman with intent to de-designate, the LOE may:

- Request further review of decision by the State Ombudsman and the AAA director. At the request of the AAA, PDA may review the appeal and provide recommendations, but the State Ombudsman has the final decision.
- The LOE may be asked to provide additional information pertinent to the decision at the request of the State Ombudsman or AAA Director.
- Upon review, final decision by the State Ombudsman stands.

If de-designation stands:

- The AAA and the State Ombudsman shall provide for the continuation of services of the Office until designation of another entity is effective.
- Withdrawal of designation of a provider agency shall not become effective until all appeals are exhausted.
- The AAA shall terminate its contract for services of the Office with the provider agency.

f. Voluntary withdrawal of a LOE

A LOE may voluntarily relinquish its designation by providing notice to the State Ombudsman and to the AAA (where appropriate). Such notice shall be provided not less than six (6) months in advance of the date of the relinquishment of designation in order to assure a smooth transition of services and training for the new LOE staff.

g. Continuation of Ombudsman Services

Where a LOE is in the process of appealing its de-designation or has relinquished designation or the designation is suspended:

- The AAA, if applicable, and the State Ombudsman shall arrange for the provision of services until a new LOE is designated.
- The LOE shall surrender intact to the State Ombudsman or their designee all case records, documentation of all activities, access to computer systems, and complaint processing as required by the State Ombudsman reporting system and identification cards of all local ombudsmen associated with the LOE or provider agency.

II. Agency and Personnel Requirements

A. General Employment/Appointment

The agency in which the Office is organizationally located, and LOEs must not have personnel policies or procedures which prohibit local ombudsmen from performing the functions, duties and responsibilities of the Office as set forth in [45 CFR 1324.13](#) and section 712 of the Older Americans Act.

This does not prohibit the agency from requiring local ombudsmen, including volunteers, from adhering to the personnel policies of the entity.

The Office's staff persons are hired by and work at the direction of the State Ombudsman. They may be employees of the commonwealth, contracted employees, or independent contractors.

The State Ombudsman provides statewide leadership for the Office. These are including, but not limited to, directing activities of the Office staff, regional ombudsmen, Data and Analytics Specialist, Volunteer Coordinator, certified local ombudsman staff, and certified volunteers in order to fulfill the functions of the Office set forth in the Act.

1. Recruitment and Background Checks for LOE Employees

The LOE agrees to promptly recruit for positions as soon as notice is given or the position is vacated.

Recruitment should follow the equal opportunity employing practices of the LOE and any county government protocols that apply.

All applicants must be screened for conflicts of interest and complete a background check prior to an offer of employment.

In accordance with the [45 CFR 1324](#), LOE's are encouraged to coordinate with the Office in the employment of local ombudsmen. This could include sharing information about applicants prior

to an offer of employment, jointly interviewing applicants, or establishing other joint screenings where allowable.

For all individuals, the employment process shall be as follows:

Individuals selected to serve as local ombudsmen must:

- Meet the minimum qualifications for the applicable position required by the Office.
- Be free of un-remedied conflicts of interest.
- Successfully pass background checks.
- Have demonstrated capability to carry out the responsibilities of a local ombudsman.
- Complete the initial training set forth by the State Ombudsman.
- Agree to conform to the ethical requirements of the Office. ([See Appendix C.2](#))
- Sign the Confidentiality Statement (also required annually). ([See Appendix C.3](#))
- Agree to complete required hours of continuing education training.

The LOE will inform the Office in writing of the hiring or appointment of a local ombudsman within five (5) business days following acceptance of an employment offer from the LOE.

No local ombudsman shall investigate any complaint unless they have completed the required initial training, been screened for potential conflicts of interest, and are designated by the Office as local ombudsmen.

A designated local ombudsman is authorized to provide services anywhere in the commonwealth.

2. Resignation or Termination of LOE Employees

When a local ombudsman has resigned, the LOE will notify the Office in writing (via email) within one (1) business day informing them of the last day of employment.

When a local ombudsman has been terminated, the LOE shall inform the Office in writing (via email) within one (1) business day of the action. Any disciplinary action involving program activity should be shared with the Office when it occurs.

No local ombudsman shall investigate any complaint unless he/she has completed the required initial training, been screened for potential conflicts of interest, and is designated by the Office.

A designated ombudsman is authorized to provide services anywhere in the commonwealth.

3. Recruitment and Background Checks for Volunteers

The LOEs will recruit volunteers on an ongoing basis with technical assistance and support from the Office's Volunteer Recruitment and Retention Specialist.

The Office requires all volunteer applicants to fill out a volunteer application and a conflict-of-interest form. (See Appendix C.4 - Individual Conflict of Interest Screening)

- The State Ombudsman may decline to train any potential volunteers who do not appear to be a good fit for the Office due to behavior, attitude, incomplete or negative reference checks, or inability to adhere to the Code of Ethics. (See Appendix C.2 - Volunteer Code of Conduct)

- At any time during training, the volunteer, the trainers, the State Ombudsman (or local ombudsman) may decide that a volunteer is not a good fit. This type of decision will immediately stop the volunteer training and cause the State Ombudsman to refuse to designate that individual. The Office will notify the volunteer in writing.

B. Conflict of Interest

A conflict of interest exists in the provision of services when other interests intrude upon, interfere with, or threaten to negate the ability of the LOE to advocate without compromise on behalf of long-term care community residents. The Office identifies and applies the definitions and categories of potential conflicts that are contained in [45 CFR 1324.21](#), including organizational conflicts and individual conflicts.

1. Organizational Conflicts of Interest

§ 1324.21 Conflicts of interest.

Organizational conflicts include any conflicts that may impact the effectiveness and credibility of the work of the Office. Organizational conflicts of interest include, but are not limited to, placement of the Office, or requiring that a local ombudsman perform conflicting activities, in an organization that:

- Is responsible for licensing, surveying, or certifying long-term care facilities.
- 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.
- Has any ownership or investment interest (represented by equity, debt, or other financial relationship in, or receives grants or donations from, a long-term care facility.
- Has governing board members with any ownership, investment or employment interest in long-term care facilities.
- Provides long-term care to residents of long-term care facilities, including the provision of personnel for long-term care facilities or the operation of programs which control access to or services for long-term care facilities.
- Provides long-term care coordination or case management for residents of long-term care facilities.
- Provides long-term care services, including programs carried out under a Medicaid waiver approved under section 1115 of the Social Security Act ([42 U.S.C. 1315](#)) or under subsection (b) or (c) of section 1915 of the Social Security Act ([42 U.S.C. 1396n](#)), or under a Medicaid State plan amendment under subsection (i), (j), or (k) of section 1915 of the Social Security Act ([42 U.S.C. 1396n](#)).
- Sets reimbursement rates for long-term care facilities.
- Sets reimbursement rates for long-term care services.

All LOEs and host agencies shall notify the State Ombudsman of any actual or potential conflict of interest of which they have knowledge. (Appendix to be added)

The State Ombudsman shall determine whether appropriate actions may be taken to sufficiently remedy the conflict.

A conflict can be sufficiently remedied only:

- Where the existence of the conflict does not interfere with any duties of the Office.
- Where the conflict is not likely to alter the perception of the Office as an independent advocate for long-term care community residents.

2. Individual Conflict of Interest

Individual conflicts of interest include, but are not limited to, participation in or an immediate family member's participation in any of the following:

- Having direct involvement in the licensing or certification of an LTC community.
- Having an ownership, operational, or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed LTC community. If the individual gives up his/her financial interest immediately at the time of employment or appointment, that is considered an adequate remedy.
- Having been employed by or participating in the management of an LTC community within the previous two (2) years.
- Receiving, or having the right to receive, directly or indirectly, remuneration (in cash or in kind) from an owner or operator of an LTC community.
- Accepting gifts or gratuities of significant value from an LTC community or its management, a resident or a resident representative of an LTC community in which the Office provides services.
- Accepting money or any other consideration from anyone other than the Office for the performance of an act in the regular course of the duties of the Office without State Ombudsman approval.
- Serving as guardian, conservator or in another fiduciary or surrogate decision-making capacity for a resident of a long-term care community in which the Office provides services.
- Serving residents of a long-term care community in which an immediate family member resides.
- Providing services with conflicting responsibilities while serving as a local ombudsman, such as:
 - Adult protective services.
 - Discharge planning.
 - Preadmission screening for long-term care.
 - Case management for long-term care.
 - Legal services.

In no circumstance shall a LOE staff, volunteer sub-contractor, or individual

- Have direct involvement in the licensing or certification of a long-term care community.
- Have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care community where they are not willing to give up their financial interest immediately at the time of employment or appointment.

- Receive, or has 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 community.
- Is employed by, or participating in the management of, a long-term care community.

3. Disclosure of a Conflict of Interest

All LOE employees, sub-contractors and local ombudsmen shall annually sign the Conflict of Interest Agreement declaring they are free of any conflicts which would interfere with the performance of their duties as a local ombudsman. (Appendix C.4 - Individual Conflict of Interest Screening)

Whenever an LOE is considering the hiring or appointment of a staff, sub-contractor or volunteer for the provision of ombudsman services and advocacy, agency will carefully review the application and resume of the candidate for conflicts.

In addition, during the interview and preliminary research process, the agency will ask specific questions regarding the previously listed conflicts in order to determine whether conflicts exist. The agency will also seek information about the candidate's immediate family, in order to determine whether conflicts exist there.

To ensure compliance with conflict of interest standards, all staff and volunteers requesting designation as a local ombudsman shall complete a "Conflict of Interest Agreement" form and affirm that they are in compliance with the previously listed standards or explain any variance from such compliance. (Appendix C.5 - Individual Conflict of Interest – No Conflict)

The agreement shall be reviewed annually to ensure that no new conflict of interest has arisen in the prior 12 months. Any new conflicts shall be reviewed then removed or remedied, subject to final review by the State Ombudsman.

Every 12 months, local ombudsmen will verify that no conflicts of interest remain that are not remedied.

Once identified, failure to disclose a potential conflict in a timely manner may be grounds for de-designation as a local ombudsman or de-designation as a LOE for the Office.

4. Remediation of Conflicts of Interest

After a conflict of interest has been identified, the State Ombudsman, designee, and affected local ombudsmen shall ensure the removal or remediation of such conflict.

A conflict can be sufficiently remedied only when:

- The existence of the conflict does not interfere with any duties of the Office.
- The conflict is not likely to alter the public's perception of the Office as an independent advocate for residents of the commonwealth's long-term care communities.

a. Organizational Conflicts of Interest Remediation

The State Ombudsman should determine whether actions may be taken to remedy an identified organizational conflict. A conflict can be satisfactorily remedied only when the continued existence of the conflict does not compromise the ability of the Office to carry

out its duties and is not likely to diminish the perception of the Office as an independent advocate for residents.

Reviewing the conflict of interest

1. When potential conflict is identified, the State Ombudsman shall review the circumstances of the potential conflict. The State Ombudsman shall determine:
 - Whether a conflict of interest exists.
 - Whether the conflict could be remedied by appropriate action by the agency involved.
2. The Office shall inform the agency involved of the results of the review and may provide assistance.

Remedying conflicts

If the conflict can be remedied, in the case of conflict within an AAA, the AAA shall:

1. Develop a written plan within five (5) business days of identification of the conflict:
 - Which shall define the conflict and propose a remedy to eliminate, or:
 - Which, to the greatest extent possible, minimizes the impact of the conflict.
2. Submit the proposed remedy to the Office for approval.

The Office shall:

1. Review the proposed remedy and notify the regional ombudsman and AAA of approval, denial, or additional corrections needed in order for the potential conflict to be remedied.
2. Respond within five (5) days of notification of potential remedies.

b. Individual Conflict of Interest Remediation

- Where individual conflicts have been identified, a written remediation plan shall be developed within thirty (30) calendar days of the identification of the conflict. The plan must identify the conflict and provide assurances which shall minimize to the greatest extent possible the negative impact of the conflict of interest. The plan must be signed by both the local ombudsman and the State Ombudsman or designee. (Appendix C.6 - Individual Conflict of Interest – Conflict Identified)
- Where the individual is an applicant for a paid position as a local ombudsman, a plan shall be developed before the individual is hired for the position.
- Where the individual is an applicant for a position as a volunteer local ombudsman, a plan shall be developed before the individual is designated as a local ombudsman.
- Where the individual is already a local ombudsman, a plan shall be developed, as soon as possible, to remediate the conflict of interest.

- Reasonable steps should be taken to avoid assigning local ombudsmen to an LTC community that would create a conflict of interest.
- Failure to identify and report a known individual conflict of interest to the State Ombudsman shall be sufficient grounds for refusal to designate a potential local ombudsman, to de-designate a local ombudsman, and/or termination of a local ombudsman.
- Failure to remove a conflict of interest or the existence of a conflict of interest that cannot be remedied shall be sufficient grounds for the de-designation, or termination, of the volunteer local ombudsman.

5. Failure to Identify or Remedy a Conflict of Interest

Failure on the part of a local ombudsman entity to disclose a known conflict of interest may be sufficient grounds for de-designation of said entity.

Failure on the part of a local ombudsman to disclose a known conflict of interest may be sufficient grounds for de-designation of the local ombudsman.

Existence of an un-remedied conflict of interest may be sufficient grounds for the de-designation of the LOE, or the de-designation of the local ombudsman.

C. Training

1. Training of local ombudsmen

In order to provide standard training throughout the Commonwealth of Pennsylvania, the Office provides a training guide for all LOEs and local ombudsmen.

Local ombudsmen shall take part in designation training in compliance with the Administration for Community Living (ACL) National Training Standards.

Designation training should be completed during their first six (6) months of service. Training and all training materials are provided by the Office. Local ombudsmen are prohibited from carrying out the duties of the Office until they have completed the required designation training and all shadow/mentoring requirements.

All local ombudsmen must complete the training curriculum which adheres to recommendations made by the National Ombudsman Resource Center best practices. The curriculum includes a minimum of 36 hours of coursework through independent study, group, and field training.

2. Continuing Education

All local ombudsmen will participate in at least 18 hours continuing education trainings annually.

- The State Ombudsman will identify material for all or part of the continuing education trainings to assure consistent education opportunities.
- Continuing education materials will be issued by the Office. Any additional LOE-created materials must be pre-approved by the State Ombudsman or their designate.

- Continuing education opportunities may be provided by face-to-face meetings, referral to electronic informational material, or conferences.

D. Regional Ombudsmen

Designated LOEs will develop employment procedures for the employment of regional ombudsmen with the review and approval of the State Ombudsman.

LOEs provide personnel support, but not programmatic management. LOEs are to provide fiscal and administrative support for regional ombudsmen. As such, they are therefore employed or contracted by the LOE, but are representatives of the Office and receive policy and programmatic supervision from the Office.

A person employed as a representative of the Office should have the same minimum qualifications as laid out in the federal regulation for the State Ombudsman, which should include:

- Experience in long-term services and supports or other direct services for older persons or individuals with disabilities.
- Consumer-oriented public policy advocacy.
- Leadership and program management skills.
- Negotiation and problem resolution skills.
- Should not have been employed by a long-term care community in the previous two (2) years.
- Have no un-remedied conflicts of interest.

III. Program Requirements

A. Records Retention

The LOE shall ensure the proper management of files, resident records, volunteer files, and other information of the Office, whether in physical, electronic, or other formats, including information pertaining to the cases and activities of the local ombudsman.

Such files, records, and other information are the property of the Office and may not be released, disclosed, duplicated, or removed without the written permission of the State Ombudsman or designee.

The LOE will collect and record data relating to complaints and conditions in long-term care communities, and for the purpose of identifying and resolving significant problems in the State Ombudsman designated system. This database collection system is known as the Pennsylvania Ombudsman Electronic Reporting System, and shall be isolated from access by anyone not designated by the State Ombudsman.

General case information storage shall be as follows:

- All open case files, notes, and other documents that include personally identifiable information shall be stored in a locked file cabinet.
- Personal information may only be stored on laptops that are encrypted and require a password.
- Personal information may only be emailed using a secure email system.

- When closing a case, all documentation in the file including notes shall be entered into the electronic reporting system in a timely manner. All case documentation shall be entered in the case file within 10 days of closure of the case.
- All paper and electronic copies of files should be stored in a locked file cabinet or encrypted and password-protected computer for three (3) years or the duration specified in the contracts, whichever is longer.
- The State Ombudsman, in collaboration with PDA, will ensure that the electronic reporting system will not retain records beyond the three-year requirement.

B. Access

In accordance with the federal Long-Term Care Ombudsman Program Final Rule (Federal Register, Vol. 80, No. 28, 7704-7767 published February 11, 2015) "Pennsylvania shall establish and implement procedures for resolution of complaints."

To assure timely and unimpeded access to a local ombudsman, posters containing information on how to contact the Office must be displayed in a language that residents understand. All licensed long-term care communities must demonstrate adherence to this policy by placing posters in a location or in multiple locations that are easily assessable to residents and visitors.

Posters which have been reduced in size, are displayed in such a way as to obscure the information, or which have been modified, placed into a binder, require a resident to request access to, or are otherwise displayed in such a way as to obstruct access to its information shall be deemed noncompliant with the requirements for assurance of access to a local ombudsman under federal law.

Any long-term care community that limits access to a local ombudsman is subject to regulatory citation.

1. Access to Residents and LTC Communities

Per [Pennsylvania Code Title 55, § 2600.5](#). Access (personal-care homes), [Pennsylvania Code Title 55, § 2800.5](#). Access. (assisted-living facilities) and [§ 1187.22](#). Ongoing responsibilities of nursing facilities.

The local ombudsman shall have the authority to:

- Enter any long-term care community and have access to residents of the community at any time during a community's regular business hours or regular visiting hours, and at any other time when access may be required by the circumstances to be investigated.
- The local ombudsman should notify the community staff of their presence upon entering the facility by signing the visitor log. The local ombudsman shall wear their identification badge and approved lanyard at all times when onsite at a community.
- The local ombudsman has the authority to communicate privately and without restriction with any resident who consents to the communication.
- Residents of the facility shall have the right to request, deny or terminate visits with the local ombudsman.
- Access also includes access to resident representatives, if any, where needed to perform the functions and duties of the Office. The need for access is always predicated on the need for information in investigating a complaint.

- If the resident representative refuses to consent to access, and the local ombudsman believes the resident representative is not acting in the best interests of the resident, the local ombudsman shall obtain approval of the State Ombudsman in order to gain access.

2. Access to Client Records

The local ombudsman shall be allowed immediate access to client records.

- Under federal law, the local ombudsman, as a designated representative of the Office, shall have access to review medical, social, personal, clinical, financial and other records of a resident. This includes access to the name and contact information of the resident representative, if any, where needed to perform the duties of the Office. As resident-directed advocates, if there is a need to access and review the resident's records, the local ombudsman must explain to the resident or their representative why we are requesting access to their records and why we must obtain permission to review the records. A resident release form is provided for this activity. (Appendix to be attached)
- If there is an issue involving access to records, the local ombudsman should contact their supervisor or regional ombudsman for technical assistance on how to proceed.
- If a resident is unable to give informed consent, the local ombudsman may seek informed consent from the resident representative. When written consent is not possible from the resident or the resident representative, oral authorization must be documented in the case records.
- With the approval of the State Ombudsman or their designee, review of records may be pursued by the local ombudsman without consent of the resident or their legal representative if there is reason to believe the resident representative is not acting in the best interest of the resident, and the resident is not able to give consent..
- Where there is no resident representative and the resident is not able to give consent, the local ombudsman must provide documentation of such and may access records when necessary for complaint investigation.
- Local ombudsmen shall have access to all licensed long-term care communities, residents, and their records at all times. Access to records must be granted regardless of format and including, upon request, copies of such records.
- Records include medical, social, and other records relating to a resident. Access to these records is subject to resident-directed protocols for obtaining informed consent. Documentation of consent to access by either the resident or resident representative, either in writing or orally, visually, or through the use of auxiliary aids and services, with contemporaneous documentation by a representative (if not in writing), is required.
- Per [45 CFR 1324.11\(a\)\(2\)\(vii\)](#), the Health Insurance Portability and Accountability Act of 1996 (HIPAA) does not preclude release by covered entities of resident private health information or other resident identifying information to the Office, 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.
- Under the terms of established memorandum of understanding between the Office and the Commonwealth's regulatory bureaus, the Office shall establish protocols for coordination of services to shared consumers for which all entities have access to an individual's personal health information. As a specific example, in the coordination of involuntary discharge notices to nursing home residents, the Office shall coordinate

with the regulatory entity the PA Department of Health, as well as with the Department of Human Services where the individual is a participant in Community Health Choices to prevent unlawful evictions.

- The records of a resident shall be treated with the highest degree of confidentiality and obtained only as necessary to seek resolution of a complaint on their behalf.

C. Information and Assistance

The LOE should provide information and assistance regarding long-term care issues and the needs and rights of residents. Requests for information and assistance are welcomed from anyone, including facility staff.

Information and assistance may require some research in order to collect and provide adequate information but does not trigger an investigation.

The LOE should promptly respond to requests for information. As a best practice, a response should occur within five (5) business days.

Documentation of these activities is required.

D. Community Education and Facility Staff Training

The LOE should offer community education to create awareness about the role long-term care ombudsmen play in the continuum of services and to engage with individuals about residents' rights under the Older Americans Act.

LOEs should also offer facility staff training for those working in long-term care communities. These trainings offer an opportunity to inform staff of the role of a local ombudsman, to affirm residents' rights, and to provide information on abuse, neglect and exploitation.

Documentation of these activities is required and should be completed within 10 working days.

E. Technical Assistance to Resident and Family Councils

LOEs should provide technical support to resident and family councils and or promote the formation of resident and family councils for the benefit of those living in long-term care communities. LOEs should respond to questions and provide literature, videos, and training, where possible, on resident and family councils.

Documentation of these activities is required and should be completed within 10 business days.

F. Site Visits

1. Bankruptcy Visits

Facility visits are made when the State Ombudsman has been appointed the Patient Care Ombudsman to ensure resident needs and rights are upheld during bankruptcy proceedings. The visits will be made by local ombudsmen at a frequency established by the Office, and reporting on a specialized facility visit form is required.

Documentation of this activity is required and should be completed within five (5) business days.

2. Routine Facility Visits

A routine visit requires visitation to all areas of the facility and with a diverse group of residents assessing the quality of life and care from the residents' perspective. All facilities will be required to have at least one visit per calendar quarter to ensure that residents have regular and timely access to a local ombudsman. A standardized form is required to be attached to the documentation of these visits.

Documentation of this activity is required and should be completed within 10 working days.

3. Non-Routine Facility Visits

Non-routine visits are for any visits made to the facility outside of routine visits.

Documentation of this activity is required and should be completed within 10 working days.

G. Complaint Processing

Regardless of the source of a complaint, local ombudsmen serve the resident of a long-term care community. Resolution of a complaint, including but not limited to a complaint related to abuse, neglect or exploitation, is always focused on resolution to the satisfaction of the resident, and protecting the health, welfare, and rights of the resident. A resident should always be empowered to engage in self-resolution as an option.

The State Ombudsman, regional ombudsmen and local ombudsmen must maximize and support resident participation in the process of complaint resolution, as required in the federal rule.

1. Receipt of Complaints

Complaints may be initiated by:

- Residents, families or friends of residents, long-term care facility staff, and any other concerned person.
- Complainants who wish to remain anonymous. In many cases, the local ombudsman may proceed without knowing the complainant's or resident's identities and in such instances, investigation shall occur.
- Local ombudsmen who have personal knowledge of an action, inaction, or decision that may adversely affect the health, safety, welfare, or rights of residents including actions, inactions, or decisions of:
 - Facilities in response to natural disasters, evacuations, relocations, involuntary change of management, closures, or other unusual events.
 - Governmental agencies in response to the concerns and conditions of residents in long-term care communities.
- When information regarding a complaint or concern is received, the local ombudsman should explain that an ombudsman's role is to act in accordance with resident wishes and maintain confidentiality.

- The local ombudsman should meet with the resident or contact the complainant to obtain all relevant information from the complainant including previous actions to remedy the problem.

The conversation should include the following general elements:

A personal discussion with the resident (or resident's representative when the resident is unable to communicate consent) will help to determine the perspective of the resident as it pertains to the complaint:

- The wishes of the resident as to resolution or desired outcomes.
- Whether the resident wishes to report the complaint to outside agencies.
- Whether the resident understands his/her rights.
- The perspective of the resident in the plan of action.
- Whether the resident considers the resolution satisfactory.

The local ombudsman should determine if the complaint is appropriate for services of the Office.

The following complaints are not appropriate for ombudsman activity:

- Complaints that do not directly impact residents.
- Complaints that are outside the scope of the mission or authority of the state office.

If the resident dies during the time that a case is open, the local ombudsman will close the case. The local ombudsman should:

- Determine if the case should be opened as a systemic case. If the local ombudsman determines that the case should not be opened as a systemic case, they should inform the complainant that the local ombudsman will not open a case as there is no client for which an issue can be resolved.
- Refer the complainant to the appropriate entity for resolution of their complaint, including police, a private attorney, protective services, etc.

When the resident is unable to give informed consent:

- If the resident is unable to communicate informed consent, and has no representative, the local ombudsman should investigate and attempt to resolve the complaint in order to protect the health, safety, welfare and rights of the resident.
- If the resident cannot give consent, or the local ombudsman witnesses the incident, the local ombudsman should request consent to investigate from the State Ombudsman.
- The State Ombudsman should render a decision on consent requested for an investigation within 24 hours of receipt of case information.

In order to process the case, the local ombudsman should:

- Investigate and work to resolve the complaint in order to protect the health, safety, welfare and rights of the resident.
- Determine, if possible, whether the complaint has been resolved to the satisfaction of the resident. This will include a determination of whether a resident's representative has legal authority to speak for the resident.
- In determining whether to rely upon a resident representative to communicate or make determinations on behalf of the resident related to complaint processing, the local

ombudsman should ascertain the extent of the authority that has been granted to the representative under court order (in the case of a guardian or conservator), by a power of attorney, or other document by which the resident has granted authority to the representative, or under other applicable state or federal laws.

- Investigation by the local ombudsman should proceed only with the express consent of the resident or resident representative, except in systemic cases or when the local ombudsman has concern regarding the safety and best interests of the resident.
- Communication of informed consent may be made in writing, orally, or visually, including through the use of auxiliary aids and services, and such consent should be documented contemporaneously by the local ombudsman.
- If the resident is unable to communicate informed consent and has no representative, the local ombudsman may attempt to determine what the resident's wishes would have been, particularly in the case where the health, safety, welfare and rights of the resident would be affected.
- If the resident is unable to communicate informed consent and has no representative expressing a desire to have regulatory, protective services, or law enforcement action taken, the State Ombudsman must approve this action or the local ombudsman should contact the State Ombudsman for approval. Once approval from the State Ombudsman is obtained, the local ombudsman will assist the resident in contacting the appropriate agency and/ or disclose the information the resident has consented to for such purposes.

2. Complaints of Abuse, Neglect, Abandonment and Exploitation

Long-Term Care Ombudsmen are authorized receive and may investigate complaints of abuse, neglect, abandonment, and/or exploitation at the direction of a resident or their legal representative. Resident direction must be documented.

If the State Ombudsman or local ombudsman have not obtained informed consent from the resident or resident's representative, they are prohibited from making a Report of Need.

Where a resident cannot communicate consent, per [45 CFR 1324.11\(e\)\(3\)\(iii\)\(c\)\(iv\)](#), local ombudsmen should report instances of abuse and neglect to the State Ombudsman. Where the resident or resident's representative gives consent a referral to Adult or Older Adult Protective Services Report of Need shall be made and a complaint filed with the regulatory entity.

Where the State Ombudsman or local ombudsman have reason to believe the resident's legal representative is not acting in the best interest of the resident, the State Ombudsman may make a determination to report based on evidence in the case.

3. Complaint Response

Regardless of the source of the information or complaint, the resident of a long-term care community is the client, and all complainants shall be so informed.

Complaints are accepted via any method or modality a complainant chooses to employ.

Complaint information will decide the response time as shown in the chart below.

A response to the complaint is expected no later than five (5) business days from receipt of the complaint.

a. Response timeline

If a complaint involves:	Then the standard of response must be:
<p>Abuse or gross neglect and there is reason to believe the resident is at risk.</p> <p>Actual or threatened transfer or discharge from the facility within two (2) calendar days.</p> <p>Use of physical or chemical restraints</p>	<p>Within 24 hours or next business day from receipt of information.</p>
<p>Abuse or gross neglect and the resident is not at imminent risk (e.g. is currently hospitalized or is at home with family).</p>	<p>Within 72 hours or three business days from receipt of complaint.</p>
<p>All other types of complaints.</p>	<p>Within five (5) business days and guided by the severity or urgency of the complaint, it is recommended that work on the complaint begin as soon as possible to assure timely access to a local ombudsman.</p>

Appropriate standard responses include, but are not limited to:

- Direct response to complainant, including visits to resident.
- Advice and guidance to complainant and/or resident.
- Empower residents to self-advocate with minimal involvement from the local ombudsman.
- Technical assistance.
- Remain resident-focused and resident-driven.
- Maintain confidentiality.
- Referral to Abuse Hotline, in cases of abuse, neglect, or exploitation.
- Referral to outside agencies (e.g. Community Health Choices for Medicaid issues).

4. Complaint Investigation

To investigate, verify, and ultimately resolve a complaint, the State Ombudsman or local ombudsman should take one or more of the following steps, dependent on the nature of the complaint, and always with the express consent of the resident:

- Research relevant laws, rules, regulations and policies.
- Interview the resident and/or complainant, offer privacy to the resident for the purpose of confidentially providing information and investigating the complaint.
- Advise the resident (and representative, where applicable) of resident rights.

- Determine the wishes of the resident with respect to the resolution of the complaint, including whether the allegations are to be reported and if so, whether the local ombudsman may disclose resident-identifying information or other relevant information to the facility and/or appropriate agencies.
- Investigate the situation and evident issues.
- Interview any staff administration, physician, residents and family members with consent from the resident only disclosing the identity of the resident with their consent.
- Identify relevant agencies and interview and/or obtain information from their staff, with consent from the resident.
- Examine any relevant records including clinical, medical, social, financial, and other records in keeping with access and confidentiality policies and procedures, with consent from the resident.
- Review any other information available to the local ombudsman and pertinent to the investigation.
- Consider the most appropriate time to conduct an on-site visit; it may be outside of normal hours of operation if necessary to investigate the concern.
- Consider combining these issues with other problems in the same facility, corporation, agency, or program.
- Determine the sequence of investigatory steps.

An investigation should minimally include the following investigative activities:

- An in-person visit and interview with the resident(s) and/or his or her representative (if applicable).
- Develop a plan of action with the resident(s).
- Direct contact and interview with the complainant, which may be a telephone call or email. Direct contact with the complainant is not required if the complaint was made anonymously, or if the complainant requests not to be contacted, or if there is no further need to obtain additional information.

Exceptions to in-person contact with the residents:

- If the resident requested that he or she not be visited or contacted.
- If the resident is the complainant and confirms that an in-person visit is not needed. It is always important to explain the need for a visit; residents may hesitate to have a local ombudsman visit through fear of retaliation.
- If the case involves a notice of involuntary transfer or discharge for non-payment and the local ombudsman is able to speak to the resident directly over the telephone and resolve the case without an in-person visit.
- If the case involves a Medicaid application and the local ombudsman is able to speak to the resident directly over the telephone and resolve the case without an in-person visit.

Investigate the complaint to determine if the complaint is verified. A complaint is verified if it is determined after interviews, record inspection, observation, etc., that you can confirm that most or all facts alleged by the complainant are likely to be true.

Complaints should be resolved with maximum participation of the resident. The resident should guide the resolution as much as possible, especially regarding the resident's consent to the investigation and resolution of the complaint.

At the conclusion of the investigation and resolution, the local ombudsman will determine whether the resident is satisfied with the outcome. Attempts should be made to resolve the complaint to the resident's satisfaction. If resident satisfaction is not achieved, it should be noted in the record. This will also be documented in the Office's electronic reporting system.

Where the resident is unable to communicate informed consent, and has no representative, the local ombudsman should:

- Take appropriate steps to investigate and work to resolve the complaint in order to protect the health, safety, welfare and rights of the resident.
- Determine whether the complaint was resolved to the satisfaction of the complainant.

Where a resident has a representative, it is important to determine the scope of their authority to make determinations on behalf of a resident. The local ombudsman should meet with the resident. The local ombudsman should determine if the resident can provide informed consent in the matter. The local ombudsman should then determine the extent of the authority that has been granted to the resident representative under court order (in the case of a guardian or conservator), by a power of attorney, or under other applicable state or federal law).

Investigation by the local ombudsman should proceed only with the express consent of the resident, or their resident representative except in systemic cases or as outlined with State Ombudsman permission in cases where there is concern that the resident representative is not acting in the best interest of the resident.

Communication of informed consent may be made in writing, orally, or visually, including through the use of auxiliary aids and services, and such consent should be documented contemporaneously by the local ombudsman using the required consent form. (See Appendix 3.)

The resident may choose to refuse consent or withdraw consent from the local ombudsman to pursue a case investigation. If this occurs, the local ombudsman may:

- Determine whether the type of complaint is recurring with other residents and may proceed with an ombudsman-generated complaint as a systemic problem.
- Inform the resident that they may contact the Office in the future regarding the withdrawn complaint.
- Provide contact information, such as a business card or brochure, informing the resident on how to contact the program.
- Discontinue work on the individual complaint.
- For all abuse and neglect complaints in which the resident refuses to give or withdraws consent, knowing the potential consequences of his or her refusal, the local ombudsman should:

- Complete the steps a-d.
- Discontinue work on the complaint.
- Report the withdrawal or refusal immediately to the Office.
- All casework and complaints will be documented in the Office's electronic reporting system.

H. PEER — Pennsylvania Empowered Expert Residents

The Office supports and encourages local ombudsman entities to train and support PEER groups throughout the facilities it serves. PEER has proven to provide empowerment skills to residents to self-resolve concerns and to also assist other residents in the facilities where they reside. There are several activities that PEER residents perform, and we record those for evaluation and tracking purposes.

1. PEER advocacy. Examples are:

- A PEER providing individual assistance to other residents in the facility, such as empowering others, welcoming new residents, advocating for residents with facility staff, and information and consultations to other residents.
- A PEER working with other agencies and individuals, both inside and outside of government, on laws, regulations, policies, and actions to improve health, welfare, safety, and rights on long-term care consumers.
- PEER time during statewide and local PEER conference calls.
- A PEER attending Resident Council meetings.
- A PEER completing Resident Rights Month survey.

Documentation of this activity is required and should be completed within 10 working days.

1. PEER community outreach.

Complete for community activities that PEER groups complete, such as school supplies for children in need, veterans' support activities, and food drives. Documentation of this activity is required and should be completed within 10 working days.

2. PEER-conducted training.

Complete for PEERs conducting training to facility staff, ombudsmen, community, other agencies, or any other individuals/groups, including PEERs conducting Resident Rights Month training. Documentation of this activity is required and should be completed within 10 working days.

3. PEER training.

Complete for local ombudsmen conducting the standardized PEER training sessions for residents. List all participants who complete the five (5) sessions of training and capture the topic of PEER training. Documentation of this activity is required and should be completed within 10 working days.

4. PEER follow-up activities:

The Office recognizes that PEERs participate in follow-up activities. These activities include, but are not limited to, attending the graduation ceremony, monthly PEER meetings, meeting with the local ombudsman during facility visits, and follow up group activities. Documentation of this activity is required and should be completed within 10 working days.

Willful Interference

Per [42 U.S. Section 3058 \(g\)\(b\)](#), long-term care facilities are required to provide local ombudsmen with unimpeded access to long-term care communities and residents.

This law authorizes the local ombudsman to move freely, without an escort or hindrance, throughout a long-term care community in order to:

- Identify, investigate, and resolve complaints.
- Observe and monitor conditions of residents and long-term care communities.
- Speak confidentially with residents.
- Provide services to assist residents in protecting their health, safety, welfare and rights.

Local ombudsmen who encounter willful interference from facility staff or others during the performance of their duties shall immediately report the incident(s) to their regional ombudsman.

In cases where interference is by facility administration or staff, the local ombudsman will promptly document the incident and inform the State Ombudsman of the incident through their regional ombudsman at the time of occurrence.

The State Ombudsman would contact the community administrator either by phone, letter, or in person and proceed to resolve the issue. In all cases, the State Ombudsman should work to resolve the issue of interference.

After consultation with facility administration, and if there is no agreed resolution, the State Ombudsman should take action in compliance with Section 712 of the Older Americans Act.

Concerns regarding interference with, retaliation towards, or reprisals experienced by residents or representatives as acts of willful interference may be reported to Pennsylvania regulatory entities or older adult/adult protective services, where applicable.

Examples of interference include, but are not limited to:

- Preventing the local ombudsman from entering a community.
- Refusing to allow the local ombudsman to speak confidentially with residents.
- Refusing to allow the local ombudsman access to all areas within the community.
- Refusing to grant local ombudsmen access to resident records.
- Failure to display ombudsman program posters in a prominent position in the facility.

IV. Monitoring

A. Monitoring of LOEs

The Pennsylvania Department of Aging, the Ombudsman State Office (Office), the Area Agencies on Aging, and LOEs share the responsibility of ensuring quality of the services offered by the Office to residents of Pennsylvania's long-term care communities.

The State Ombudsman evaluates the programmatic performance of Office staff, LOEs, and local ombudsmen on an ongoing basis, through the use of the following:

- Observation and regular review of data reports.

- Use of program evaluation tools provided by the National Ombudsman Resource Center.
- Periodic quality assurance meetings and visits to the LOEs.
- Survey instruments and other data gathering techniques, as appropriate, including real-time monitoring of the Pennsylvania ombudsman electronic reporting system data.
- Review of the data collected for the National Ombudsman Reporting System (NORS), submitted annually through the Older Americans Act Performance System (OAAPS).

B. Fiscal Management and Monitoring

PDA is responsible for monitoring fund expenditures in compliance with federal law.

Fiscal oversight is the responsibility of the PDA Finance Office and the State Ombudsman. The State Ombudsman actively participates in the review of fiscal reporting that is submitted by LOEs to PDA.

Fiscal reports generated by the Area Agencies on Aging and provided to the PDA Finance Office should assure the funds for services of the Office are expended on approved activities.

Fiscal monitoring should provide assurance that the amount each LOE spends each year is not less than the Minimum Funding Requirement found in [Title 42 U.S. Code section 3027\(a\)\(9\)](#).

C. Programmatic Evaluation (Monitoring) of LOEs and Local Ombudsmen

LOE services are programmatically reviewed by the State Ombudsman or designees not less than quarterly. The results and any technical assistance are discussed with the LOE and the AAA, if there are concerns. The State Ombudsman has the right to initiate more frequent program evaluation of an LOE as a result of:

- High staff turnover, or multiple new staff members hired since the last program evaluation was conducted.
- Repeat and/or multiple compliance issues found during quarterly reviews.
- Concerns about the LOE that would best be investigated through the monitoring process. Results of the LOE's review will be reported to the LOE and/or the AAA where applicable.

The Office establishes program policies and procedures and provides statewide oversight of the program to ensure consistent advocacy and resolution of complaints on behalf of long-term care community residents in Pennsylvania.

- Monitoring shall include access to and review of programmatic and fiscal information by the State Ombudsman, regional ombudsmen, or local ombudsmen.
- All data, files, and information pertaining to activity by any local ombudsman are the property of the Office.
- Input of all data is done by the State Ombudsman or designees into the Office's electronic reporting system.
- Case documentation will be entered into the Office's electronic reporting system in a timely manner and within 10 business days of occurrence.
- The State Ombudsman, through the regional ombudsmen, is responsible for reviewing case information on a regular basis for required elements.
- The Office shall review, at least quarterly, the activities and complaint data of the statewide program and each region.

- Volunteer feedback regarding training, mentoring, reporting, and supervision will be reviewed regularly. Volunteer feedback will assist in maintaining a strong, standardized program for all local ombudsmen. Volunteer feedback will also be considered when monitoring overall program effectiveness.

V. Grievance

Grievance Process

This section concerns the receipt and review of grievances regarding the determinations or the actions of the State Ombudsman, regional ombudsmen, and local ombudsmen.

A. General Grievance Requirements

Grievances against local ombudsmen must be submitted in writing to the State Ombudsman or regional ombudsman. Alternatively, communication may be made orally or visually, including through the use of auxiliary aids and services, and such must be documented contemporaneously by the individual receiving the grievance.

Anyone may file a grievance – residents, local ombudsmen, family members, and/or long-term care community staff.

All grievances or complaints against ombudsmen should contain the following information:

- Contact information of the person filing the grievance (name, phone number, email or mailing address).
- The nature of the complaint, including at least the following:
 - Name of the person or organization the grievance is against.
 - Date and time of the incident.
 - Location of incident.
 - Brief description of what happened.
- Specific facts supporting the allegation, including at least the following:
- Any documentation of the incident.
- Names of others involved or witnesses.
- The complainant's desired resolution of the grievance.

Upon receipt of a grievance, the State Ombudsman or designee should acknowledge the receipt as soon as possible, but preferably no later than five (5) business days from receipt. The acknowledgement should include the date of receipt of a grievance, explain the grievance process and clarify any information, if needed.

B. Grievances against the State Ombudsman

Complaints against the State Ombudsman must be filed with the Pennsylvania Secretary of Aging.

Complaints against the State Ombudsman will follow the Commonwealth Administrative Policies. Complaints should be verified to eliminate grievances with no substance.

In cases where a conflict of interest might exist, a review committee consisting of three (3) individuals may be appointed by the Secretary of Aging. Members of such a committee could be an administrative hearing attorney or staff from the human resources office.

Consent will be requested to disclose resident identifying information, if central to the complaint and cannot be obtained from any other source.

C. Grievances against local ombudsmen

Grievances against local ombudsmen should be investigated by the State Ombudsman, their designee, and/or the LOE supervisor of the local ombudsman, depending on the nature of the grievance – personnel, programmatic or both.

Where the State Ombudsman receives a grievance against a local ombudsman, the grievance will be date stamped and forwarded to the AAA Director and/or the LOE Director. Where the grievance is programmatic in nature, the State Ombudsman will lead the investigation; where concerns are personnel related, the AAA or LOE will lead the investigation and response.

Where a AAA and/or LOE receive a grievance against a local ombudsman, the grievance should be date stamped and forwarded to the State Office for investigation as described by either party or both.

All efforts should be made to complete the investigation within 14 business days of receipt of complaint by the LOE or the Office.

Affected individuals, including the grievant, should be notified of receipt of a grievance in writing, telephone call, or in person within five (5) business days.

After review and investigation, a response to the grievance should be issued as soon as possible, but no later than 15 business days of receipt. All efforts should be made to provide the complainant with a written response within 15 business days.

Actions in response to a grievance may include but are not limited to:

- Remedial action including additional training, supervision, or de-designation.
- Appeal may be made to the State Ombudsman, whose decision is final, except where the complaint is against the State Ombudsman.

Per [45 CFR 1324.11\(e\)\(7\)](#), the State Ombudsman should make the final determination to designate or to refuse, suspend, or remove designation of an LOE or local ombudsman.

The State Ombudsman is not authorized to terminate employment or engage in any disciplinary action against a local ombudsman employed by an LOE.