

## TO BE RESCINDED

173-9-01

**Introduction and definitions.**

(A) Introduction: Chapter 173-9 of the Administrative Code establishes the requirements and procedures for conducting free database reviews and criminal records checks on applicants and employees for paid positions to provide ombudsman services or direct care, as required by sections 173.27 and 173.394 of the Revised Code.

(B) Definitions:

(1) "Applicant" means either of the following:

(a) Ombudsman: A person who is under final consideration for employment with the office of the state long-term care ombudsman program in a full-time, part-time, or temporary position that involves providing ombudsman services to residents and recipients. "Applicant" includes a person who is under final consideration for employment as the state long-term care ombudsman or the head of a regional long-term care ombudsman program. "Applicant" does not include a person seeking to provide ombudsman services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(b) Direct care: A person who is under final consideration for paid employment in a full-time, part-time, or temporary position that involves providing direct care to an individual or is referred to a responsible entity by an employment service for such a position. "Applicant" does not include a person who seeks to provide direct care to an individual in a position as a volunteer without receiving, or expecting to receive, any form of remuneration other than reimbursement for actual expenses.

(2) "BCII" means "the bureau of criminal identification and investigation" and includes the superintendent of BCII.

(3) "Chief administrator" means the individual in charge of the daily operations of responsible entity that provides direct-care services or any employee of a responsible entity whom the chief administrator has designated as the chief administrator's representative. Under a consumer-directed or self-directed arrangement, the consumer is the chief administrator. If the responsible entity is a non-agency or self-employed provider, the responsible entity is the chief administrator. When Chapter 173-9 of the Administrative Code requires a responsible entity that provides direct-care services to perform an action, it

reflects requirements in section 173.394 of the Revised Code for the chief administrator of the responsible entity to perform that action.

- (4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.
- (5) "Direct care" means any in-person contact with one or more consumers who receive a community-based long-term care service or any access to a consumer's personal property or personal records. "Community-based long-term care service" has the same meaning as in section 173.14 of the Revised Code.
- (6) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code.
- (7) "Employee" means either of the following:
  - (a) Ombudsman: A person employed by the office of the state long-term care ombudsman program in a full-time, part-time, or temporary position that involves providing ombudsman services to residents and recipients. "Employee" includes the person employed as the state long-term care ombudsman and a person employed as the head of a regional long-term care ombudsman program. "Employee" does not include a person who provides ombudsman services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.
  - (b) Direct care: A person employed by a responsible entity in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a responsible entity by an employment service. Under a consumer-direction arrangement, the consumer is the responsible entity and the consumer-directed provider is the employee. If the responsible entity is a non-agency or self-employed provider, the responsible entity is the employee. "Employee" does not include a person who provides direct care to an individual as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.
- (8) "FBI" means "the federal bureau of investigation."
- (9) "Minor drug possession offense" has the same meaning as in section 2925.01 of

the Revised Code.

- (10) "ODA" means "the Ohio department of aging."
- (11) "Responsible entity" means any of the following entities (which are also listed in paragraph (A) of rule 173-9-02 of the Administrative Code):
- (a) Ombudsman:
- (i) In the case of an applicant who is under final consideration for employment as the state long-term care ombudsman or the person employed as the state long-term care ombudsman, the responsible entity is ODA's director.
  - (ii) In the case of any other applicant or employee, the responsible entity is the state long-term care ombudsman or the ombudsman's designee.
- (b) Direct care: In this case of a provider of direct care, "responsible entity" has the same meaning as "community-based long-term care agency" in section 173.39 of the Revised Code where the term "community-based long-term care agency" means a person or government entity that provides community-based long-term care services under a program that ODA administers, regardless of whether the person or government entity is certified under section 173.391 of the Revised Code or authorized to receive payment for the services from ODA under section 173.392 of the Revised Code. Section 1.59 of the Revised Code defines "person" to include an individual, corporation, business trust, estate, trust, partnership, and association.
- (12) "Waiver agency" has the same meaning as in section 5111.033 of the Revised Code.

Replaces: 173-9-01  
Effective: 04/01/2014  
R.C. 119.032 review dates: 01/14/2014

**CERTIFIED ELECTRONICALLY**

---

Certification

03/21/2014

---

Date

Promulgated Under: 119.03  
Statutory Authority: 173.01, 173.02, 173.27, 173.391, 173.392, 173.38;  
Sections 305(a)(1)(C) and 712(a)(5)(D) of the Older  
Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001,  
as amended in 2006; 45 C.F.R. 1321.11 (10-01-2012  
edition)  
Rule Amplifies: 173.27, 173.38; 42 C.F.R. 460.68(a) (10-01-2013  
edition)  
Prior Effective Dates: 173-9-01: 03/04/1997 (Emer.), 07/31/1997,  
04/17/2003, 01/01/2008, 02/15/2009, 08/11/2011,  
01/01/2013. 173-14-14: 07/11/1991, 12/27/2001,  
12/28/2006, 02/15/2009