

173-14-15

Conflicts of interest.

(A) Definitions for this rule:

- (1) "Conflict of interest" has the same meaning as described or defined in 42 U.S.C. 3058g(f), 45 C.F.R. 1324.21, or Chapter 102. of the Revised Code.
- (2) "Financial interest" means an ownership interest or investment in a provider by ~~a representative of the office~~ an ombudsman or the immediate family member of the ~~representative~~ ombudsman of the office.
- (3) "Remedy" means an action, restriction of action, restriction of contact, or other means proposed to the SLTCO that would neutralize a conflict of interest and ensure the conflict does not adversely influence the activities of the ~~representative~~ ombudsman on behalf of the office.
- (4) "Waiver" means the SLTCO has determined sufficient circumstances exist to eliminate a conflict of interest and the need to remedy a conflict of interest.

(B) No employee or ~~representative~~ ombudsman of the office, no individual involved in designating, hiring, evaluating, or terminating a regional program director, and no governing board member, may have an unremedied conflict of interest.

(C) Actions prohibited by someone holding a remedied conflict of interest include, but are not limited to, actions taken to influence any decision or action of ~~a representative of the office~~ an ombudsman, which could be characterized as interference with or reprisals against ~~a representative~~ an ombudsman or as causing hesitation on the part of ~~a representative~~ an ombudsman to vigorously investigate a ~~consumer's~~ client's complaint.

No ~~representative of the office~~ ombudsman may provide core ombudsman services involving a long-term care provider with which the ~~representative~~ ombudsman was formerly employed, with which the ~~representative~~ ombudsman was formerly or is currently affiliated or associated, from which an immediate family member receives long-term care services, or that poses any other conflict of interest unless the SLTCO grants a waiver.

(D) On initial designation and annually thereafter, the SLTCO, the regional programs, and the sponsoring agencies shall screen potential and existing non-representative employees of the program, potential candidates, and each existing ~~representatives of the office~~ ombudsman; individuals involved in designating, hiring, evaluating, or terminating the head of any regional program; and potential and existing governing board members for conflicts of interest. When completed, the person who conducted the screen and the person screened shall acknowledge the completion of the screen

in writing or electronically. The completed screening ~~instrument form~~ and a résumé shall be entered into the ombudsman-~~registry~~ administrative system, made a record of the program, and be subject to program review.

- (E) Before offering an ombudsman position to an applicant or training a volunteer, the sponsoring agencies and/or regional program directors shall report any identified conflict of interest, and may propose a remedy, to the SLTCO. The SLTCO shall report any identified conflict of interest in the state office and propose a remedy to ~~ODA's AGE's director or chief ethics officer~~. Within five business days after receiving a proposed remedy, the SLTCO or ~~ODA's AGE's director or chief ethics officer~~ shall review the nature, scope, and extent of the conflict and determine whether ~~or not~~ to allow the proposed remedy.

The proposed remedy shall be entered into the ombudsman-~~registry~~ administrative system; reveal the nature, extent, and potential impact of the conflict of interest; and neutralize the conflict of interest. Current employment with any type of provider is a conflict of interest that cannot be remedied. Any remedy granted shall remain in effect for as long as the conflict continues to exist to the same extent as reported and for as long as the remedy continues to work. Conflict of interest screens and proposed remedies or waiver requests shall be entered into the ombudsman-~~registry~~ administrative system.

Examples of remedies which may be approved include, but are not limited to, remedies that assure the following:

- (1) The independence of the ~~representative of the office~~ ombudsman to provide unbiased investigations, successful problem resolution, advocacy services, and other ombudsman services.
- (2) That no employee, ~~representative of the office~~, ombudsman, or governing board member having a conflict of interest is involved with or influences any decision to hire, appoint, evaluate, or terminate ~~a representative of the office~~ an ombudsman.
- (3) That no employee, ~~representative of the office~~, ombudsman, or governing board member having a conflict of interest is involved with or influences the designation of any regional program.
- (4) That no governing board members having a conflict of interest in their capacity as board members are involved in a complaint being handled by the program involving the entity that is the source of the conflict of interest.

- (5) That any governing board members having a conflict of interest in their capacity as board members have declared any conflict of interest regarding a complaint or advocacy issue, and excused themselves from deliberations and voting on the issue.
 - (6) That the governing board's by-laws, the organization's position descriptions, and personnel policies reflect procedures to identify and remedy conflicts of interest and ensure independence of action for the program and ~~its representatives~~ any ombudsman in that program.
- (F) Before offering an ombudsman position to an applicant or training a volunteer, the sponsoring agencies and/or regional program directors shall report any identified conflict of interest, and may request a waiver of a conflict of interest from the SLTCO in the ~~ombudsman-registry~~ administrative system, or if the SLTCO requests the waiver, from ~~ODA's AGE's director or chief ethics officer~~, by revealing the nature, scope, extent, and potential impact of the conflict of interest and whether sufficient circumstances exist to eliminate the conflict of interest. Within five business days after receiving a waiver request, the SLTCO or ~~ODA's AGE's director~~, as appropriate, shall review the nature, scope, extent, and potential impact of the conflict and shall determine whether or not sufficient circumstances exist to eliminate a conflict of interest and approve the waiver.
- (1) Any conflict of interest not waived or remedied, and any prohibition resulting therefrom, shall be recorded in the ~~ombudsman-registry~~ administrative system.
 - (2) The SLTCO may take into consideration the following when determining whether to grant a waiver:
 - (a) The length of time an individual was affiliated with a provider.
 - (b) The view of the SLTCO of the objectivity of the individual.
 - (c) The position held by the individual when working for a provider.
 - (d) The change in the ownership and/or management of a ~~facility provider~~ and the length of time since the change in ownership and/or management.
- (G) No ~~representatives of the office ombudsman~~ may hold ~~positions~~ a position or perform ~~duties~~ a duty that would constitute a conflict of interest.
- (H) Deliberate failure to disclose any conflict of interest or any prohibition is sufficient grounds for the removal of the candidate from the professional development training program, the decertification of ~~the representative~~ and ombudsman, or the withdrawal of the designation of the regional program involved.

Effective:

Five Year Review (FYR) Dates: 8/26/2025

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 121.07, 173.01, 173.02, 173.16; 42 U.S.C. 3025,
3058g; 45 C.F.R. 1321.9, 1324.11, 1324.13, 1324.15
Rule Amplifies: 173.16; 42 U.S.C. 3058g; 45 C.F.R. 1324.11, 1324.21
Prior Effective Dates: 07/11/1991, 12/27/2001, 12/28/2006, 05/01/2018,
01/28/2022, 08/01/2024