

173-14-25

**Changes in a regional program's designation status; notice rights; and hearing requirements.**

(A)

- (1) The SLTCO may change the designation of a fully designated regional program to a provisional designation, or may withdraw the designation of a fully or provisionally designated regional program for cause. Cause shall include, but shall not be limited to, any of the following:
  - (a) The regional program's failure to follow policies and procedures that conform with sections 173.14 to 173.27 of the Revised Code, Chapter 173-14 of the Administrative Code, all relevant provisions of the Older Americans Act, or other related federal laws regulating the activities of the office;
  - (b) The regional program's failure to meet structural standards;
  - (c) The regional program's failure to provide services in accordance with sections 173.14 to 173.27 of the Revised Code, Chapter 173-14 of the Administrative Code, all relevant provisions of the Older Americans Act, other related federal laws, the policies and procedures of the office, the service contract, or an approved ombudsman plan;
  - (d) The development of an unremedied conflict of interest involving the regional program, its sponsoring agency, or an individual associated with either; or,
  - (e) The misfeasance, malfeasance, or nonfeasance of an employee of the program or a representative of the office.
- (2) When provisionally designating a fully designated regional program, the SLTCO shall provide the regional program with notice of the decision to provisionally designate the program. The notice shall specify the changes or corrections necessary for the program to come into compliance with the program review standards or conflict of interest provisions, define the length of time the regional program will be given to come into compliance, and shall explain that failure to implement the requirements of the notice will lead to a withdrawal of designation. A regional program may appeal the SLTCO's decision to provisionally designate the program. The appeal shall be conducted in accordance with Chapter 119. of the Revised Code.

Any regional program on provisional designation shall provide the SLTCO with a written report of their progress on a monthly basis or as otherwise

required and shall document that the required changes and corrections have been made. Once the required changes or corrections have been made, the SLTCO shall fully designate the regional program.

(3)

(a) The SLTCO may withdraw the designation of a regional program when the scope and severity of the cause is of such a nature that corrections are not likely to be successfully implemented. The SLTCO may presume such failures when any of the following occurs:

(i) The cause is found to involve a flagrant disregard of the office's policies and procedures, structural standards, or federal or state law;

(ii) The pattern of problems are repeated and correction is unlikely; or,

(iii) Attempted corrections of problems by the regional program have not been successful.

(b) The SLTCO shall give the regional program notice of the decision to withdraw the regional program's designation. The notice shall contain an explanation of the SLTCO's reason for the withdrawal of the designation. The sponsoring agency may appeal the SLTCO's decision in accordance with Chapter 119. of the Revised Code.

(B) A regional program may voluntarily withdraw its designation as a regional long-term care ombudsman program by providing the AAA with jurisdiction in the designated region and by providing the SLTCO with a written notice of its intent ninety days prior to the date upon which the program expects the withdrawal of designation to take place.

(C) The sponsoring agency of a regional program that voluntarily withdraws its designation or that has had its designation withdrawn by the SLTCO shall surrender intact to the SLTCO all ombudsman case records; documentation of all ombudsman activities required for the uniform statewide reporting system in accordance with paragraph (C) of rule 173-14-19 of the Administrative Code; the identification cards of all of its representatives; any equipment purchased with title III or title VII funds awarded under the Older Americans Act, the long-term care ombudsman state subsidy, bed fee monies; and the balance of any state, federal, or bed fee monies it has been allocated as a result of its designation as a regional ombudsman

program on the effective date of the regional program's de-designation or voluntary withdrawal of designation, or as otherwise agreed to by the AAA, the regional program, and the SLTCO.

- (D) When a regional program voluntarily withdraws its designation or has had its designation withdrawn, the contract required under paragraph (C) of rule 173-14-22 of the Administrative Code terminates effective with the effective date of the regional program's de-designation or its voluntary withdrawal of designation, except that the regional program and the SLTCO or the AAA shall remain responsible for complying with all policies, regulations, and statutes governing the office for activities undertaken prior to the termination of the contract.
- (E) The SLTCO shall provide for or ensure the continuation of ombudsman services in any designated region where a regional program has voluntarily withdrawn its designation from the office or been de-designated.
- (F)
  - (1) In all cases where the SLTCO seeks to deny the initial designation for a regional program, to provisionally designate a fully designated regional program, or to withdraw the designation of a provisionally designated or fully designed regional program, the SLTCO shall follow the notice and hearing procedures set forth in Chapter 119. of the Revised Code.
  - (2) Notice SLTCO shall give notice to the regional program's sponsoring agency. The notice shall be given by registered mail with a return receipt and shall include all of the following:
    - (a) The charges or other reasons for the proposed action;
    - (b) The law or rule directly involved in regard to the charges or reasons for the proposed action;
    - (c) A request that any explanation or extenuating circumstances connected to the SLTCO's decision be provided in writing to the SLTCO;
    - (d) A statement informing the sponsoring agency that the sponsoring agency is entitled to a hearing if it so requests such a hearing within thirty days after mailing the notice; and,
    - (e) A statement informing the sponsoring agency that, at the hearing, the sponsoring agency may be represented by its board, director, attorney,

or other such representative as is permitted to practice before the agency; or, that the sponsoring agency may present its position, arguments, or contentions in writing; and, that the representative of the sponsoring agency may present evidence and examine witnesses appearing for and against the sponsoring agency at the hearing.

- (3) Whenever a sponsoring agency requests a hearing in accordance with this rule, the SLTCO shall immediately set the date, time, and place of the hearing and forthwith notify the sponsoring agency thereof. The date set for the hearing shall be within fifteen days, but not earlier than seven days, after the sponsoring agency requested the hearing, unless otherwise agreed to by the department and the sponsoring agency.

Five Year Review (FYR) Dates: 05/01/2015 and 05/01/2020

CERTIFIED ELECTRONICALLY

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Certification

05/01/2015

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Date

Promulgated Under: 119.03  
Statutory Authority: 173.01, 173.02, 173.16; 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 (October 1, 2014 edition).  
Rule Amplifies: 173.16, 173.18; Section 712 of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006.  
Prior Effective Dates: 07/11/1991, 12/27/2001, 12/28/2006