



Office of the State Long-Term Care

**OMBUDSMAN**

*Established within the Iowa Department on Aging*

**Iowa Office of the State  
Long-Term Care Ombudsman  
Volunteer Ombudsman Program**

**Volunteer Policy Manual**

**February 2015**

*The mission of the Office of the State Long-Term Care Ombudsman is to protect the health, safety, welfare, and rights of individuals residing in long-term care by investigating complaints, seeking resolutions to problems, and providing advocacy with the goal of enhancing quality of life and care.*

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## PURPOSE

The purpose of this manual is to provide advance, written guidance to Volunteer Ombudsman on a variety of circumstances that are foreseeable during their service with the Volunteer Ombudsman Program (VOP). The VOP strives to ensure that Volunteer Ombudsmen are well prepared to carry out their duties, and that duties are carried out in a consistent fashion by all participants. Volunteer Ombudsmen will observe the policies provided in this manual and will ask for clarification on policies they do not understand.

**TITLE:** Volunteer Ombudsman Applicant Intake, Training, and Certification Process

**Statutory References:**

Iowa Administrative Code 17-8.6  
Iowa Code 231.45

**STATEMENT of POLICY:**

Applicants to the Volunteer Ombudsman Program (VOP) must successfully complete the intake, training, and certification process. The process is intended to be identical for each applicant, unless the applicant requires individualized assistance. The process is deemed to be equivalent to 12 hours, as required by Iowa Administrative Code 17-8.6(4).

**PROCEDURE:**

- I. **Application:** Any person may request and submit an application to become a Volunteer Ombudsman. Applications may be provided upon request from the VOP, or accessed from the VOP's web page on the Iowa Department on Aging website: [www.iowaaging.gov/vop](http://www.iowaaging.gov/vop). A complete application must be submitted to the VOP before consideration of the individual as a Volunteer Ombudsman can begin.
  - A. The application will be reviewed by the Volunteer Ombudsman Program Coordinator. Provided the applicant appears suitable for the VOP and lacks relevant conflicts-of-interest (see policy VO3), the applicant will be contacted to complete a phone interview.
  - B. An applicant may voluntarily withdraw his or her application at any time prior to certification.
- II. **Declined Applicants:** If at any point prior to certification it is determined by the VOP Coordinator that the applicant does not possess the qualifications to serve as a Volunteer Ombudsman the applicant will be notified they are no longer being considered as a Volunteer Ombudsman. Alternative non-Ombudsman volunteer opportunities within the Office of the State Long-Term Care Ombudsman may be offered to the applicant.
- III. **Phone Interview:** A phone interview will be conducted by a VOP Coordinator with all applicants under consideration. The phone interview further clarifies the role of the Volunteer Ombudsman and the applicant's appropriateness for the role. Applicants who receive a favorable result of their phone interview will be invited to new volunteer training.
- IV. **Training:** Applicants will be trained as expeditiously as possible, given that certain considerations must be made with regards to scheduling and justifying the expenses to the program by training very small groups of volunteers. Training will include independent review of materials prior to in-person training, in-person training, and independent review of materials after in-person training.
  - A. In-person trainings are scheduled throughout the state where groups of five or more applicants from the surrounding area are likely to attend. Applicants may attend any training without regard for the location. However, applicants without a scheduling

- conflict are expected to attend trainings that occur within their own county or a county that is adjacent to their county of residence.
- B. Trainings are typically held during a week day during the day time. Pending the strictness of applicant availability, weekend or evening trainings may be considered.
  - C. Applicants are expected to attend the entire in-person training and fully participate in lecture, discussions, and activities.
  - D. Prior to and during in-person training, applicants will be asked to review and consent in writing to the Volunteer Ombudsman Agreement, and to the authorization of their background check screening.
  - E. By the end of training, applicants will be expected to understand the principles of the VOP and demonstrate the essential skills of a Volunteer Ombudsman. Applicants who do so will be invited to participate in a post-training consultation.
- V. **Post Training Consultation:** Post training consultation is essentially a second phone interview to continue to check for the applicant's understanding of the concepts delivered during the training process, and their continued suitability for the VOP. The post training consultation is typically conducted within 30 days of the applicant's in-person training. Applicants who receive a favorable result of their post-training consultation will then have their criminal and abuse background assessed.
- VI. **Background Check:** The process for background checks is outlined in policy VO2. Background check results may be returned immediately upon search, but can take several weeks to return—especially for applicants who reside in a state other than Iowa. Applicants with acceptable background check results will continue in the certification process.
- VII. **Facility Assignment:** The Volunteer Ombudsman Coordinator and Local Long-Term Care Ombudsman will confer to review the applicant's intake materials and recommend an appropriate facility assignment. Considerations include:
- A. Conflicts of interest, or other perceived biases about a particular facility.
  - B. The applicant's preference of facility in terms of location, size, license designation, or anticipated level of challenge.
  - C. The utility of placing a volunteer in a facility where the Local Long-Term Care Ombudsman experiences a particular volume of complaints.
  - D. The facility's total capacity for residents.
  - E. Whether or not a facility has an active Volunteer Ombudsman.
- VIII. **Certification:** Once a facility assignment has been agreed upon, the VOP will issue a written notice of certification to the new Volunteer Ombudsman and to the Administrator of the facility to which the new Volunteer Ombudsman has been assigned. For new Volunteer Ombudsmen, certification is granted for one year.
- IX. **Orientation:**
- A. The Local Long-Term Care Ombudsman will contact the new Volunteer Ombudsman and the Facility Administrator to schedule a time in the near future that all parties can meet at the facility for the Volunteer Ombudsman Orientation. The orientation consists of:

1. A meeting between all parties listed above, and any facility staff the Administrator deems appropriate, so that the Local Long-Term Care Ombudsman can make introductions, outline the role of the Volunteer Ombudsman, and clarify questions from all parties.
    - a. At this time, a facility point of contact will be assigned to the Volunteer Ombudsman by the Administrator.
  2. A tour of the facility.
  3. An opportunity to shadow the Local Long-Term Care Ombudsmen as they demonstrate how to make observations, introduce oneself to residents, ask questions, and respond to complaints.
- B. Facility orientations are intended to be completed in one visit. The Volunteer Ombudsman should make every use of this opportunity to prepare him or herself to conduct their next visit to the facility independently.
- C. The facility orientation should not be counted as a visit on the Volunteer Ombudsman's monthly report.

**TITLE:** Volunteer Ombudsman Background Checks

**Statutory References:**

Iowa Code 231.45  
Iowa Administrative Code 17-8.6(3)

**STATEMENT of POLICY:**

An applicant's selection into the Volunteer Ombudsman Program (VOP) is contingent upon a number of factors; including the VOP's review of his/her criminal history, abuse records, and background check. The VOP has the right to perform a complete criminal history check prior to the applicant's acceptance as a Volunteer Ombudsman, and at any time during his/her volunteer service.

**PROCEDURE:**

- I. **The VOP will review:**
  - A. The National Sex Offender Public Website (NSOPW) prior to the applicant's acceptance as a volunteer. If an applicant appears on the NSOPW, he/she will not be able to participate in this program.
  - B. Criminal history via the Iowa Department of Criminal Investigation. If the applicant resides in another state at the time of application, his/her criminal history will also be reviewed via the equivalent criminal history repository in that state, as permitted by law. Whether the results of this/these checks impact an applicant's eligibility to serve as a Volunteer Ombudsman is at the program's discretion.
  - C. The Iowa Dependent Adult Abuse and Child Abuse Registries. If the applicant resided in another state at the time of application, the equivalent registries (including Elder Abuse) will be reviewed as permitted by law. If an applicant appears on the Dependent Adult Abuse Registry (or its equivalent including Elder Abuse in his/her state of residence), he/she will not be able to participate in this program. Whether the results of Child Abuse Registry check(s) impact eligibility to serve as a Volunteer Ombudsman is at the program's discretion.
  - D. The Office of the Inspector General's Department of Health and Human Services Exclusions Database. If an applicant appears in the Exclusions Database, he/she will not be able to participate in the program.
- II. **Information necessary to conduct checks:** Applicants must provide the VOP with any documents and/or information it needs to conduct these checks. Each applicant's background check must be completed with results received before his/her service in the VOP can begin.
- III. **Background check findings:** If the VOP's review of an applicant's background and criminal history check reveals information that it determines should prevent his/her selection into this program, the VOP will advise the applicant in writing of its proposed determination, and

will provide the applicant with a copy of the information it has received (to the extent permitted by law). The VOP will allow the applicant an opportunity to challenge the factual accuracy of the information in writing within five business days of its notifying the applicant of its proposed determination. The VOP deems that the applicant received the information described herein within three business days of the mailing. If/when the applicant writes to challenge the factual accuracy of his/her record, he/she may also provide any other written information that may assist the VOP in its review.

**IV. How the VOP evaluates criminal history checks prior to volunteer certification:**

Prior to extending an offer to serve as a Volunteer Ombudsman, each applicant will be advised that any offer is contingent upon the applicant being found suitable for the VOP based on its review of the applicant's criminal history and background as described below.

- A. If the applicant has not already done so, he/she will need to provide written authorization allowing the VOP to conduct a background check through the Iowa Division of Criminal Investigation and the Iowa Department of Human Services.
- B. If the applicant was a resident of a different state at the time of application to the VOP, he/she will also need to provide any necessary authorization to allow the VOP to conduct an equivalent criminal history and background check through the state in which the applicant resided at the time of application, as permitted by that state.
- C. The VOP will also conduct a check to determine if the applicant is listed on the National Sex Offender Public Website (NSOPW).
- D. The VOP will conduct a check to determine if the applicant is listed on the Office of the Inspector General's U.S. Department of Health and Human Services Exclusions Database.
- E. The VOP's authorized agent (the Volunteer Ombudsman Program Coordinator), will carefully review all records received to ensure that the record relates to the applicant. If the authorized agent is able to determine that the record does not relate to the applicant, the record shall in no way prevent the applicant from being offered a position with the VOP.
- F. If the VOP reasonably believes the record(s) belong to the applicant and is/are accurate, it will make a determination as to whether the applicant is nevertheless suitable for the VOP. Unless otherwise provided by law, the VOP will consider the following, and may request supplemental information from the applicant, orally or in writing, to aid in the determination process:
  - 1. Relevance of the finding to the Volunteer Ombudsman role,
  - 2. Time since the arrest or conviction,
  - 3. Age of the applicant at the time of the offense,
  - 4. Seriousness and specific circumstances of the offense,
  - 5. Number of offenses,
  - 6. Whether the applicant has pending charges,
  - 7. Any relevant evidence of rehabilitation or lack thereof, and
  - 8. Any other relevant information, including information submitted by the applicant, or requested by the Program.

- G. If the VOP is inclined to make an adverse decision based on the results of any part of the background check, after completing the determination process described above, the VOP will mail to the applicant's last known address a copy of the criminal record, a copy of this policy, and will advise the applicant of the part(s) of the record that make the individual unsuitable for the position. The VOP will further advise the applicant that he/she has the right to dispute the accuracy and/or relevancy of the record, in writing, within five business days of receiving the notice. The VOP will deem that the applicant received the information described herein within three business days of the mailing.
  - H. If the VOP receives no additional information from the applicant within the above described time frame, it will determine that the applicant has abandoned his/her application.
  - I. Upon receiving additional information from the applicant, the VOP will carefully review the information, consistent with the review process described above, and will promptly notify the applicant of the VOP's decision. This decision shall be final.
  - J. Under no circumstance will an applicant who appears on the following databases be offered a position within this program:
    - 1. National Sex Offender Registry
    - 2. Iowa Dependent Adult Abuse Registry (or its equivalent including Elder Abuse registries in other states)
    - 3. Office of the Inspector General's U.S. Department of Health and Human Services Exclusions Database
  - K. All other background and criminal history check findings may result in disqualification as a Volunteer Ombudsman at the VOP's discretion.
  - L. The VOP will, to the extent permitted by state and local law, maintain documentation for applicants covered by this provision in the applicant's file, and/or other appropriate file.
  - M. Applicant background check results are confidential.
- V. **Frequency of background checks:** Volunteers will receive a complete background re-screening every other time they apply for re-certification if their terms are served without a break in service.

**TITLE:** Conflicts of Interest

**Statutory References:**

Older Americans Act 712(f) – 42 U.S.C. 3058g  
Iowa Administrative Code 17-8.6(2)

**STATEMENT of POLICY:**

The Volunteer Ombudsman Program (VOP) Coordinators will make every reasonable effort to ensure each Volunteer Ombudsman is assigned to a facility where no or very few conflicts of interest exist. Of further importance is the continuation of a conflict of interest free relationship between the facility and Volunteer Ombudsman. This status will be maintained through Volunteer Ombudsman self-report and regular screening of conflicts of interest.

**DEFINITIONS:**

**Immediate family:** Father, mother, son, daughter, brother, sister, aunt, uncle, first cousin, nephew, niece, wife, husband, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepbrother, stepchild, stepsister, half-sister, half-brother, grandparent or grandchild.

**Long-term care facility:** Includes nursing facility, residential care facility, elder group home and assisted living program.

**Conflict of interest:**

- A. **Employment of the applicant or a member of the applicant's immediate family within the previous year by a long-term care facility or by the owner or operator of any long-term care facility.**  
Interpretive guidance: Any individual currently employed by a long-term care facility is not eligible to serve in the VOP. Immediate family may be eligible if they are willing to be placed in another non-competing facility.
- B. **Current participation in the management of a long-term care facility by the applicant or a member of the applicant's immediate family.**  
Interpretive guidance: Immediate family may be eligible for the VOP if they are willing to be placed in another non-competing facility.
- C. **Ownership or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility or long-term care service by the applicant or a member of the applicant's immediate family within the past two years.**  
Interpretive guidance: Immediate family may be eligible for the VOP if they are willing to be placed in another non-competing facility.
- D. **Involvement in the licensing or certification of a long-term care facility or provision of a long-term care service by the applicant or a member of the applicant's immediate family within the past two years.**  
Interpretive guidance: Immediate family may be eligible for the VOP if they are willing to be placed in another non-competing facility.

- E. Receipt of remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of long-term care facility by the applicant or a member of the applicant's immediate family within the past two years.**  
 Interpretive guidance: Contractors and their immediate family may be eligible for the VOP if they are willing to be placed in another non-competing facility.
- F. Acceptance of any gifts or gratuities from a long-term care facility or a resident or a resident's representative at the Volunteer Ombudsman's assigned facility within the past two years.**  
 Interpretive guidance: Gifts are considered to be anything over \$3.00 in value. Likewise, Volunteer Ombudsmen should not provide gifts, gratuities, or donations to the facility, its residents, or the resident's representatives.
- G. Acceptance of money or any other consideration from anyone other than the Office of the State Long-Term Care Ombudsman for the performance of an act in the regular course of long-term care within the past two years.**  
 Interpretive guidance: This may include but is not limited to substitute decision makers.
- H. Provision of services while employed in a position with duties that conflict with the duties of a Volunteer Ombudsman.**  
 Interpretive guidance: This may include but is not limited to legal representation, hospice, errand services, insurance, ministry, medical care, etc. pertinent to the facility they wish to serve.
- I. Provision of services to residents of a facility in which the applicant or a member of the applicant's immediate family currently resides or has resided within the past two years.**  
 Interpretive guidance: This may include but is not limited to legal representation, hospice, errand services, insurance, ministry, medical care, etc. pertinent to the facility they wish to serve.
- J. Participation in activities which negatively affect the applicant's ability to serve residents or which are likely to create a perception that the applicant's primary interest is other than as an advocate for the residents.**  
 Interpretive guidance: This may include but is not limited to current facility volunteers (see item IV) and former employees or family members who report experiences that reflect bias with the facility they wish to serve.
- K. Applicant's residency or residency of an applicant's family member in a facility within the past two years.**  
 Interpretive guidance:
- Current residents of a long-term care facility are not eligible to serve in the VOP.
  - Independent Living tenants within a Continuing Care Retirement Community (CCRC) are not eligible to serve the long-term care facilities within their CCRC, but may be eligible to serve in another non-competing facility.
  - Immediate family members of residents have the option to apply for a waiver to serve at the same facility in which their family member resides.

**PROCEDURE:**

- I.** The VOP will establish, and specify in writing, mechanisms to identify and remove conflicts of interest and to identify and eliminate relationships that may cause a conflict of interest.
- A.** All individuals who seek to serve as a representative of the Office will be screened to determine if a conflict of interest exists.

1. During the initial application process, the applicant will complete a conflict of interest evaluation. Provided the applicant completes the certification process, they will not be placed at a facility where a conflict of interest exists unless a waiver has been granted.
- B. A Volunteer Ombudsman shall report any new conflicts of interest to the Volunteer Ombudsman Program Coordinator for review as soon as the Volunteer Ombudsman is aware of the conflict of interest.
    1. Depending on the nature of the conflict of interest, the Volunteer Ombudsman may be re-assigned to a facility where a conflict of interest does not exist, or may be asked to resign from the program.
    2. If a Volunteer Ombudsman fails to report a known conflict of interest, as determined by the Volunteer Ombudsman Program Coordinator, the volunteer may be terminated from the program (see VO20).
  - C. Each time the Volunteer Ombudsman applies for recertification (no less than every other year), a new conflict of interest evaluation screening will be completed to determine if a conflict of interest exists.
- II. If a conflict of interest exists, the VOP Coordinator will review the conflict of interest to determine the nature, scope, and extent of the conflict of interest and may propose a remedy, if appropriate. Every situation will be handled on an individual, case-by-case basis.
- A. For applicants wishing to serve at the same facility where an immediate family member currently resides or has resided within the last two years, a waiver for the conflict of interest may be granted. The waiver process includes an interview with the applicant, documentation of the interview on the VOP Waiver Form, and approval by the VOP Coordinator and the State Long-Term Care Ombudsman.
  - B. Any other proposed remedy shall be in writing and reveal the nature, extent, and potential impact of the conflict of interest.
  - C. Any approved waiver or remedy shall neutralize the conflict of interest, and 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 be effective or is necessary.
    1. Examples of potential remedies may include but are not limited to:
      - a. Ensuring the applicant is not assigned to a facility owned or operated by the same corporation where the individual has a conflict of interest (i.e. hospice volunteer for an organization that includes long-term care among its services).
      - b. Requiring the Volunteer Ombudsman to abstain from providing professional (i.e. cosmetology) or voluntary (i.e. music or pet therapy) services within their assigned facility
      - c. Requesting the Volunteer Ombudsman to return any gifts provided by the facility previously (i.e. t-shirt, etc.)

- III. In determining whether a Volunteer Ombudsman's participation in community groups, professional associations, or other activities constitutes a conflict of interest, the following questions will be considered:
- A. What are the benefits of a Volunteer Ombudsman being involved in this activity?
  - B. Will the Volunteer Ombudsman be able to represent and assert the views of long-term care residents in this activity?
  - C. Will the role of the Volunteer Ombudsman in this activity benefit residents?
  - D. How will participating in the activity affect the public perception and the residents' perspective of the VOP?
  - E. Will the Volunteer Ombudsman be put in a position of participating in a decision about a resident without the resident's involvement or permission?

IV. **Volunteer Ombudsmen are not permitted to serve as a volunteer for the facility to which they are assigned.** Facility volunteer activities may include, but are not limited to leading, assisting with, or organizing activities, auxiliary/fund-raising, maintenance, social programs, nutrition, reading, faith-based interactions or efforts, hospice, transportation, music, pet therapy, etc. These activities, while they may benefit the residents and create immediate personal satisfaction for the volunteer, are not in the mission of the Office of the State Long-Term Care Ombudsman and for that reason will not be facilitated by the VOP. Further rationale being:

- A. The residents could become confused as to the purpose of the Volunteer Ombudsman if they are taking on a multitude of duties outside of the VOP role.
- B. Participating in both programs simultaneously creates a conflict of interest in volunteer supervision, which creates a perceived conflict of interest that the facility might retaliate on one of its own volunteers who was serving effectively as a Volunteer Ombudsman.
- C. Volunteer Ombudsmen are not permitted to provide hands-on services or care or transport residents due to the liability and safety risk it presents to residents, the Volunteer Ombudsman, and the VOP. Extraneous facility activities conducted by the Volunteer Ombudsman create a greater likelihood that safety will be compromised whether intentional or unintentional.

Therefore, Volunteer Ombudsman applicants should weigh carefully whether they would feel more useful serving as a Volunteer Ombudsman or a facility volunteer. To serve as a facility volunteer, please contact the VOP Coordinator to withdraw your application/resign your position, then contact the facility of your choice and request to speak to the staff member in charge of volunteer services.

- D. The only possible exception to this stance in policy is if the Volunteer Ombudsman has previously established formal volunteer service with another agency (not the facility) which may occasionally provide a service at the facility. This must be disclosed to a VOP Coordinator in advance of certification, or as soon as known by the Volunteer Ombudsman—whichever occurs first—at which point the steps reflected in item II.B. of this policy will be followed.

**TITLE:** Confidentiality

**Statutory References:**

Iowa Code 231.42(12) (confidentiality)

Iowa Administrative Code 17.8.6(9)a. (reasons for revocation)

**STATEMENT of POLICY:**

Information relating to any complaint made to or investigation by the Volunteer Ombudsman or any staff person of the Office of the State-Long Term Care Ombudsman that discloses the identity of a complainant or resident; information related to a resident's social or medical status; or files/notes maintained by a Volunteer Ombudsman that disclose the identity of a complainant or resident shall remain confidential and not disclosed. Breach of confidentiality by a Volunteer Ombudsman may result in termination from the Volunteer Ombudsman Program (VOP) (see policy VO20).

**DEFINITIONS:**

**Confidential Information:** Confidential information includes all information gained from any source that describes or pertains to a resident's personal, medical, social, or financial condition.

**PROCEDURE:**

- I. The only exceptions to the statement of policy are as follows:
  - A. The resident or legal representative (if the resident is unable to give consent) gives verbal consent—or permission to disclose—and the consent is documented by the Volunteer Ombudsman.
    1. The VOP monthly report is the appropriate place to formally document this consent.
    2. Upon the receipt of consent, the Volunteer Ombudsman is permitted to share the relevant confidential information only with the following parties:
      - a. The assigned facility point of contact
      - b. Staff of the Office of the State Long-Term Care Ombudsman
      - c. Staff of the Iowa Department of Inspections and Appeals (upon request)
  - B. The resident states or intimates a desire to commit suicide or self-harm. Should this occur:
    1. The Volunteer Ombudsman should immediately notify the facility point of contact or person in charge of the facility if the point of contact is not available.
    2. The Volunteer Ombudsman should then report the incident to the VOP Coordinator.
  - C. The disclosure is required by court order. Contact the VOP Coordinator if you experience this circumstance.
- II. Confidential information shall be actively obtained only as is necessary to provide advocacy services to the resident. Volunteer Ombudsmen may only disclose confidential information if the resident has given consent. Volunteer Ombudsmen will operate with some restrictions to their access to confidential information, as follows:

- A. Under no circumstances shall resident records be released to or reviewed by a Volunteer Ombudsman.
  - B. Volunteer Ombudsmen are not permitted to attend care conferences or any kind of meeting pertaining to the care, residence, etc. of an individual resident. If attendance at such meetings is requested, the Volunteer Ombudsman should refer the request to their Local Long-Term Care Ombudsman.
- III.** Confidential information shall be protected from disclosure or discovery to entities other than the Office of the State Long-Term Care Ombudsman. Precautions that Volunteer Ombudsmen will take to maintain confidentiality will include:
- A. Communicating the concerns of residents who have given consent to disclose only to the assigned facility point of contact and only verbally (in person or via telephone).
  - B. Monthly report forms sent to the Office of the State Long-Term Care Ombudsman by traditional mail may only use the resident's first and last initials as personal identifiers.
    - 1. Copies of monthly reports will not be made or distributed.
    - 2. Monthly report forms submitted electronically through the Volunteer Ombudsman Program's online data entry system (ODS) may use the resident's or complainants' full names. The information is entered into a secure, password protected database.
  - C. Notes recorded by a Volunteer Ombudsman must remain strictly confidential and shall be kept in a secure location where they cannot be accessed by others.
  - D. Notes not pertaining to an issue the Volunteer Ombudsman is actively investigating should be destroyed on an annual basis by the Volunteer Ombudsman, or at the time of a Volunteer Ombudsman's resignation or retirement (whichever comes first). Appropriate methods of destruction include shredding or burning.
- IV.** In addition to the above procedures, Volunteer Ombudsmen are not permitted to discuss their personal opinions or experiences regarding facility operations—positive, negative, or otherwise—with members of the community (including media/press), or provide advice regarding the placement, transfer, or discharge of any resident not in their immediate family.

**TITLE:** Volunteer Ombudsman Code of Ethics and Standards of Conduct

**STATEMENT of POLICY:**

*Adapted from the National Association of State Long-Term Care Ombudsman Programs' Code of Ethics*

- I. **Volunteer Ombudsmen will abide by the following code of ethics:**
  - A. Autonomy: Volunteer Ombudsmen encourage residents to advocate for themselves where possible.
  - B. Non-maleficence: Volunteer Ombudsmen will take precautions to do no harm.
  - C. Beneficence: Volunteer Ombudsmen will seek to do good in their role, in accordance with the standards of conduct (below) and Volunteer Ombudsman Program policies.
  - D. Justice: Volunteer Ombudsmen will strive to be fair to all.
  - E. Fidelity: Volunteer Ombudsmen will maintain relationships of trust.
  - F. Veracity: Volunteer Ombudsmen will be truthful in their communication while maintaining the policies of confidentiality (*see policy VO4*).
  
- II. **Volunteer Ombudsmen will abide by the following standards of conduct:**
  - A. Volunteer Ombudsmen are expected to be available to serve for a period of no less than twelve months (or nine months if a seasonal traveler or full-time student).
  - B. Volunteer Ombudsmen will fulfill the minimum requirements of conducting at least three hours of facility visits each month, and will submit a monthly report summarizing their visits to the Volunteer Ombudsman Program (VOP). Reports should be submitted even if no complaints were made to the Volunteer Ombudsman during the month. This is a non-negotiable programmatic expectation for all volunteers unless:
    1. The volunteer has notified the VOP Coordinator in advance, or as soon as possible following the circumstance that prevents the volunteer from completing their minimum requirements—whichever comes first.
    2. The volunteer has arranged a temporary leave of absence with the VOP Coordinator (*see policy VO7*).
    3. The volunteer has become suddenly incapacitated.
  - C. Volunteer Ombudsmen will be responsive to communications from the VOP Coordinator, their Local Long-Term Care Ombudsman, residents, complainants, and their facility point of contact.
  - D. Volunteer Ombudsmen will provide advocacy services to all residents with respect for human dignity and the individuality of each resident unrestricted by the volunteer's personal beliefs or opinions. Volunteer Ombudsmen shall not discriminate in any way.
  - E. Volunteer Ombudsmen respect and promote residents' rights, including the resident's right to self-determination.
  - F. Volunteer Ombudsmen make every reasonable effort to ascertain and act in accordance with resident's wishes.

- G. Volunteer Ombudsmen act to protect vulnerable individuals from abuse, neglect, and exploitation (*see policy VO9*).
- H. Volunteer Ombudsmen safeguard residents' right to privacy by protecting confidential information (*see policy VO4*).
- I. Volunteer Ombudsmen uphold a strict conflict of interest standard (*see policy VO3*).
- J. Volunteer Ombudsmen act in accordance with the standards and practices of the Volunteer Ombudsman Program policies.
- K. Volunteer Ombudsmen shall conduct themselves in a manner that promotes the statewide and national Long Term-Care Ombudsman network.

**PROCEDURE:**

- I. A breach of this policy, as determined by the VOP Coordinator, may result in termination from the program (*see policy VO20*).

**TITLE:** Responsibilities of the Volunteer Ombudsman

**Statutory References:**

OAA Title VII, Chapter 2, Section 711 – 42 U.S.C. 3058g  
Iowa Code 231.42  
Iowa Administrative Code 17-8.6

**STATEMENT of POLICY:**

Certified Volunteer Ombudsmen are not considered employees, but have been designated as representatives of the Office of the State Long-Term Care Ombudsman. A Volunteer Ombudsman shall advocate on behalf of residents in their assigned long-term care facility to protect their rights, safety, and welfare; to aid in satisfactory resolution of problems; and to improve the quality of life experienced by and the quality of care provided to these individuals. Although Volunteer Ombudsmen are to advocate on behalf of the resident's wishes, an Ombudsman does not advocate when it involves any illegal activity.

**PROCEDURE:**

- I. **Assigned Facility Visits:** Volunteer Ombudsmen are assigned to a long-term care facility by the Volunteer Ombudsman Program (VOP) Coordinator with input provided by the Local Long-Term Care Ombudsman.
  - A. Volunteer Ombudsmen conduct unscheduled and irregular visits to their assigned long-term care facility.
  - B. Volunteer Ombudsmen are not to be restricted from entering their assigned facility or from speaking to residents, families, staff, or other government entities (*See policy VO21*).
  - C. Upon arrival at the facility, Volunteer Ombudsmen announce their presence to the assigned point of contact or person in charge of the facility at the time if the point of contact is not present.
  - D. Volunteer Ombudsmen request the names and room numbers of newly admitted residents, according to practice arranged at the facility orientation, and attempt to visit with any new residents.
  - E. Volunteer Ombudsmen carry state-issued identification while visiting their facility and identify themselves as a Volunteer Ombudsman to all parties present.
  - F. The Volunteer Ombudsman's primary duties during facility visits include speaking with residents/resident's representatives and observing the facility's physical and cultural environment.
  - G. Volunteer Ombudsmen explain their role to residents, visitors, and staff and attempt to identify concerns affecting the quality of life and quality of care of residents.

- H. Volunteer Ombudsmen may provide educational materials provided by the VOP and the Office of the State Long-Term Care Ombudsman including brochures, handouts, business cards, etc. to facility residents, families, and other interested parties.
  - 1. Volunteer Ombudsmen do not create or distribute material that is not sanctioned by the Office of the State Long-Term Care Ombudsman. This includes unauthorized use of logos and other branding elements.
- I. Upon completion of each facility visit, Volunteer Ombudsmen visit with the facility's assigned point of contact to announce their departure and to verbally communicate any observed concerns or resident concerns if permission was granted by the resident(s).
  - 1. If the point-of-contact is not available at the time of departure, the Volunteer Ombudsman should only provide a written or verbal message for the point of contact to call the Volunteer Ombudsman to discuss the concerns. The volunteer should then announce their departure to the person in charge of the facility.
  - 2. Volunteer Ombudsmen are not authorized to give facility staff written information regarding resident concerns including but not limited to e-mails, notes, and reports.
  - 3. Volunteer Ombudsman may share concerns with facility staff other than the assigned facility point-of-contact in the event of an emergency.
- J. Volunteer Ombudsmen identify and investigate concerns that are resolvable within the scope of their role (*see policy VO8*). Some issues may require more attention and action than the Volunteer Ombudsman is equipped to provide. In such cases, Volunteer Ombudsmen should contact the Volunteer Ombudsman Program Coordinator as soon as possible.

- II. **Monthly Reports:** Volunteer Ombudsmen submit a monthly report to the Volunteer Ombudsman Program which reflects the activities, number of hours served, and contacts made by the Volunteer Ombudsman. Monthly reports also include observations, concerns, and questions identified by or brought to the attention of the Volunteer Ombudsman during their facility visits. Monthly reports are confidential and may not be shared with anyone other than the staff of the Office of the State Long-Term Care Ombudsman.
  - A. Monthly reports are due to the VOP by the last day of each month. For example, the January report would be due on January 31.
  - B. There may be issues that come to the Volunteer Ombudsman's attention that should be reported immediately, rather than waiting to submit the monthly report (see policies VO8 and VO9). Concerns of an immediate nature should be reported to the Volunteer Ombudsman Program Coordinator as soon as possible.
  - C. Reports should be submitted even if no complaints were made to the Volunteer Ombudsman during the month.
  - D. Volunteer Ombudsmen have the option to submit monthly reports via the Online Data Entry System (ODS) or in hard copy via traditional mail.
    - 1. Volunteers who submit hard copy reports via traditional mail may not:
      - a. Make copies of the reports

- b. Identify residents by name (or other criteria which could easily reveal the resident's identity) anywhere in the report. Rather, volunteers using this method of reporting should only use residents' first and last initials, or simply "resident".

**III. Contacting the Volunteer Ombudsman Program:**

- A. Volunteer Ombudsmen with questions, concerns, or requests for technical assistance should contact the VOP Coordinator. If the VOP Coordinator is unavailable, the Volunteer Ombudsman should leave a message describing their need, which will be responded to within two business days or shortly after the stated return of the VOP Coordinator's voicemail greeting or electronic automatic reply message—whichever comes first.
- B. If the Volunteer Ombudsman feels their request warrants sooner action, they may try the following, in order, until they receive assistance:
  - 1. Contact the person given as a secondary contact on the VOP Coordinator's voicemail greeting or electronic automatic reply message, if any is given.
  - 2. Contact the toll-free number for the Office of the State Long-Term Care Ombudsman: 1-866-236-1430.
  - 3. Contact the Local Long-Term Care Ombudsman assigned to the region in which the volunteer serves.
- C. If a Volunteer Ombudsman wishes to speak directly to their Local Long-Term Care Ombudsman, he/she should first contact the VOP Coordinator. The VOP Coordinator will attempt to assist the volunteer, and if they cannot, will notify the Local-Long Term Care Ombudsman that a volunteer requires their assistance.
- D. If the Local Long-Term Care Ombudsman contacts the Volunteer Ombudsman directly, the volunteer may continue carry on the conversation with the Local Long-Term Care Ombudsman as needed. Both parties are encouraged to copy the VOP Coordinator on e-mails.

**IV. Continuing Education:**

- A. Volunteer Ombudsman certification is initially granted for a period of one year. If a Volunteer Ombudsman wishes to renew their certification status, then he or she must complete 10 hours of continuing education related to aging, long-term care, or advocacy before their first year of certification status expires.
  - 1. Continuing education may include but is not limited to events and meetings hosted by the VOP, the Office of the State Long-Term Care Ombudsman, the Iowa Department on Aging, and partners within the Iowa Aging Network. Volunteers may also access print and digital materials to complete continuing education independently. For a list of pre-approved continuing education materials, please consult the VOP Manual, Section I, Page 25.
    - a. Volunteers may also request that continuing education materials or opportunities not on the pre-approved list be considered for continuing education credit. Approval may be granted at the VOP Coordinator's discretion.

- b. Volunteers that are enrolled in relevant courses (nursing, gerontology, social work, etc.) at an accredited institution of higher education, or volunteers that require CEU completion to maintain a relevant licensure (nursing, social work, psychology, etc.) may count those learning opportunities toward VOP continuing education as well.
      - c. If a volunteer exceeds the amount of continuing education required for the year, up to three hours of education can be credited for the requirements of the upcoming year.
    - 2. Volunteer Ombudsmen are responsible for reporting their completed continuing education hours to the VOP Coordinator via the Continuing Education Reflection Form (*VOP Manual, Section I, Page 31*).
    - 3. The VOP encourages volunteers to participate in free continuing education opportunities provided or approved by the VOP, but other high-quality learning opportunities may require a fee to attend. In order to provide greater access to these high-quality learning opportunities for Volunteer Ombudsmen, the VOP may offer a limited amount of scholarships to Volunteer Ombudsmen to attend such learning opportunities. The amount of scholarships available is always dependent on the budgetary status of the VOP. To learn more about the scholarship process, contact the VOP Coordinator.
  - B. Provided the volunteer wishes to renew their certification (indicated by submitting an application for re-certification), completes their 10 hours of continuing education, and receives a favorable performance evaluation, Volunteer Ombudsman re-certification is granted for a period of two years. If a Volunteer Ombudsman wishes to renew their certification status again, then he or she must complete six hours of continuing education for each year they are certified moving forward.
- V. **Volunteer Ombudsman participation in Resident Council meetings:** Resident Councils, where they exist, typically meet on a monthly basis. Volunteer Ombudsmen may attend Resident Council meetings when invited by a Resident Council member.
  - A. At the Volunteer Ombudsman's facility orientation, the Local Long-Term Care Ombudsman will attempt to introduce the Volunteer Ombudsman to the Resident Council Chairperson or other active member, so that an invitation may be obtained then or at a future opportunity.
  - B. Volunteer Ombudsmen will serve only as a resident's advocate and invited guest at the Resident Council Meetings, unless other permissions have been granted in advance by the VOP and the Council.
  - C. Volunteer Ombudsmen may request a copy of the Resident Council meeting minutes from a meeting that was missed where they were previously invited to attend.
  - D. Concerns expressed by the Resident Council should be noted in the Volunteer Ombudsman's monthly report.
  - E. Where a Resident Council does not exist, Volunteer Ombudsmen may empower residents to organize a council with the assistance of the Office of the State Long-Term Care Ombudsman. Materials about how to organize a Resident Council are available

from the Office of the State Long-Term Care Ombudsman. Contact the VOP Coordinator for more information.

- VI. **Volunteer Ombudsman participation in Family Council meetings:** Family Councils, where they exist, may vary in their meeting frequency. Volunteer Ombudsmen may attend Family Council meetings when invited by a Family Council member. For more information about Family Councils at your facility, contact your facility point of contact.
- A. Where a Family Council does not exist, Volunteer Ombudsmen may empower family members to organize a council with the assistance of the Office of the State Long-Term Care Ombudsman. Materials about how to organize a Family Council are available from the Office of the State Long-Term Care Ombudsman. Contact the VOP Coordinator for more information.
  - B. Volunteer Ombudsman will serve only as a resident's advocate and invited guest at the Family Council Meetings, unless other permissions have been granted in advance by the VOP and the Council.
  - C. Volunteer Ombudsmen may request a copy of the Family Council meeting minutes from a meeting that was missed where they were previously invited to attend.
  - D. Concerns expressed by the Family Council should be noted in the Volunteer Ombudsman's monthly report.
- VII. **Volunteer Ombudsman interaction with Department of Inspections and Appeals (DIA) Surveyors:**
- A. Volunteer Ombudsmen are typically notified by their Local Long-Term Care Ombudsman after DIA Surveyors have arrived at their assigned facility.
    - 1. Volunteers are provided with the name and phone number of the surveyor, which they may use to contact the surveyor directly.
  - B. Volunteer Ombudsmen identify themselves as a representative of the Volunteer Ombudsman Program to DIA Surveyors.
  - C. Volunteer Ombudsmen may communicate resident-specific information directly to DIA Surveyors, but only with the consent the resident.
  - D. Volunteer Ombudsmen may discuss general information with DIA Surveyors—which excludes resident names or descriptions that make residents easily identifiable—relating to direct observation and conversation with residents, as well as information about widespread facility concerns.
  - E. Volunteer Ombudsmen are not authorized to give DIA Surveyors written information or materials recorded during facility visits.

**TITLE:** Volunteer Absences

**STATEMENT of POLICY:**

It is the expectation of the Volunteer Ombudsman Program (VOP) that a Volunteer Ombudsman will be actively serving and completing their minimum requirements unless the Volunteer Ombudsman informs the VOP Coordinator of their absence.

**PROCEDURE:**

- I. **If a Volunteer Ombudsman cannot visit their facility for a period of one month or longer, they should notify the VOP Coordinator.**
  - A. **Planned Absences:** If a Volunteer Ombudsman plans to be absent and will be unable to visit their facility or submit a monthly report for a period of one month or longer, he/she should contact the VOP Coordinator in advance.
  - B. **Unplanned Absences:** If a Volunteer Ombudsman experiences an emergency or extenuating circumstances that will result in their inability to visit or submit a monthly report for a period of one month or longer, he/she should contact the VOP Coordinator as soon as possible.
  - C. **Unexplained Absences:** In the event a Volunteer Ombudsman does not submit a monthly report, and has not previously notified the Volunteer Ombudsman Program Coordinator of an absence, the VOP Coordinator will attempt to contact the volunteer to evaluate the volunteer's interest in continuing with the program.
    1. If the Coordinator is unable to make contact with the volunteer after a reasonable amount of time (no more than six weeks) or number of attempts (no more than three), the volunteer's emergency contact may be contacted.
    2. Volunteers who remain absent without official leave for longer than three consecutive months may be subject to termination from the program (see policy VO20).
- II. **Leave of Absence:** A temporary leave of absence may be granted for volunteers who experience planned and unplanned absences from the program. Leaves of absence may be granted on a case by case basis. All leaves of absence must have a planned month of return that does not disrupt the majority of their term of certification.

**TITLE:** Volunteer Ombudsman Intake and Triage of Complaints

**Statutory References:**

Iowa Code §231.42(4)(a))  
Iowa Code 235B  
Iowa Code 235E

**STATEMENT of POLICY:**

Any resident in the Volunteer Ombudsman's assigned facility is eligible to receive assistance from the Volunteer Ombudsman. Volunteer Ombudsmen will respond to complaints related to conditions or treatment of persons receiving long-term care services as mandated generally by federal and state law, regulations and rules, while maintaining a resident-directed focus. Within the capabilities of the Volunteer Ombudsman's personal availability and the Volunteer Ombudsman Program's (VOP) available resources, intake and disposition of complaints shall be accomplished in a way designed to facilitate the consistent, timely and orderly response, investigation, resolution, and documentation of complaints.

Volunteer Ombudsmen will approach these functions with an emphasis on residents' rights and with a continuing concern for resident empowerment. Assistance to the complainant may be delivered through direct advocacy by the Volunteer Ombudsman, through resident self-advocacy with assistance from the Volunteer Ombudsman, or through a blend of methods.

The VOP is not an emergency response organization. Calls placed to the Office of the State Long-Term Care Ombudsman's toll-free line or complaints received on the Iowa Department on Aging website are received and triaged Monday – Friday during normal business hours.

**PROCEDURE:**

- I. **Intake and response to complainant**
  - A. Define issue/concern and determine type of response that is warranted.
    1. Collect sufficient information (e.g. what is or isn't happening, who is involved, frequency, etc.).
    2. Analyze issues/concerns and develop options, which may include:
      - a. Determine what solution the resident wants
      - b. Encourage resident or complainant to advocate on their own behalf
      - c. Bring concern to the attention of facility point of contact—ONLY when resident has provided permission
      - d. Identify if the issue is isolated or widespread by interviewing other residents
      - e. Seek assistance from the VOP Coordinator and/or Local Long-Term Care Ombudsman
    3. Proceed according to resident's preferences.
    4. Document the concern, resident's preferences for permissions, and action taken (if any) in monthly report.

## II. **Timeliness of response**

Each incoming complaint is assessed or individually triaged by the Volunteer Ombudsman. Dominant factors considered are: severity and scope of a complaint, time sensitivity, and complaints outside the role of the Volunteer Ombudsman. The Volunteer Ombudsman is advised to contact the VOP Coordinator if the application of this policy to a specific situation is unclear.

### A. **Timely Concerns of Priority**

Complaints or concerns in this category relate primarily to potential or actual harm to a resident. It should be re-stated that Volunteer Ombudsmen do not provide “emergency” services. **If any of the following concerns are identified, the Volunteer Ombudsman should immediately report these concerns to the VOP Coordinator and/or their Local Long-Term Care Ombudsman**, afterwards recording the concern in their monthly report.

1. **Physical abuse/neglect allegations:** While the VOP provides no investigative function for these concerns, the Volunteer Ombudsman may be the first person contacted when concerns of abuse/neglect arise. Long-term care facilities are required to self-investigate and report abuse allegations to the Department of Inspections and Appeals (DIA), law enforcement, and/or the Department of Human Services (DHS), depending on the nature of the allegation.
2. **Deterioration of Condition:** Reported changes such as recent rapid weight loss, malnutrition, reported new or increased pressure sores, and other changes in condition which signal a lack of or inadequate nursing attention or care.
3. **Potential Physical Harm to Resident:** Examples of these types of complaints are: resident is being restrained, either physically or chemically; facility is not administering prescribed medication or other involved persons are refusing to allow the administration of prescribed medication; failure to adequately assess and address acute or chronic pain; residents or the residential environment not kept safe; other situations in which no actual, or minimum harm has occurred but could if circumstances are not corrected.
4. **Involuntary Discharge:** Under state and federal law and regulation, a long-term care facility may discharge a resident involuntarily with proper notice to the resident. A nursing facility shall not involuntarily discharge or transfer except for:
  - a. Medical Reasons (higher or lower level of care required)
  - b. Residents welfare or that of other residents
  - c. Non-payment for the residents stay
  - d. Reason of action under Iowa Code 229 (mental health commitment)
  - e. Negative action by Department of Human Services (DHS)
  - f. Negative action by professional standards review organization
  - g. Note: For a Residential Care Facility only categories a-d apply.

Facilities should not attempt to transmit a resident's involuntary discharge notice to the Volunteer Ombudsman. **If the Volunteer Ombudsman is provided a copy of an involuntary discharge notice, they should immediately refer to the VOP Coordinator and/or Local Long-Term Care Ombudsman.**

**B. Non-Timely Concerns of Priority**

Concerns in this category specifically may not have the potential to cause harm to a resident. However, the concerns may affect the resident's quality of life or well-being. Generally speaking, most of the concerns listed below would be more appropriately handled by a Local Long-Term Care Ombudsman, rather than a Volunteer Ombudsman. **If any of the following concerns are identified, the Volunteer Ombudsman should seek guidance from the VOP Coordinator and/or Local Long-Term Care Ombudsman**, in addition to recording the concern in their monthly report.

1. Guardianship/Power of Attorney and other legal issues
2. Appropriate facility placement for care needed
3. Unexplained or unreported accidents
4. Insufficient staff or staff not properly trained to meet needs
5. Resident wants to go back home or to another setting
6. Admission/Occupancy agreements, facility policies, negotiated risk agreements or other facility-specific documentation concerns which require resident/tenant compliance
7. Concerns regarding finances, payment, and billing
8. Concerns regarding medical treatment and medical conditions

**C. Other Priorities Appropriate for Volunteer Ombudsmen**

All other resident concerns not previously listed may be appropriate for the Volunteer Ombudsman to resolve without further guidance from the VOP Coordinator or Local Long-Term Care Ombudsman, unless guidance is requested. Such concerns may also be referred to the Volunteer Ombudsman from the Local Long-Term Care Ombudsman.

1. Environmental issues: temperature, hazards, odors, etc.
2. Resident care: hygiene, call lights, restraints, etc.
3. Quality of life: activities, roommates, etc.
4. Dietary: food quality, timely service, alternate options, etc.
5. Resident's rights: Council participation, staff interaction, self-determination, privacy, etc.

D. Very often, residents may have multiple complaints/issues. In these instances, the Volunteer Ombudsman will address all issues that they are able to for the resident and refer concerns they are not able to resolve to the Local Long-Term Care Ombudsman, regardless of the timeliness or priority of the concern.

E. Where timely investigation of a complaint is not possible; the Volunteer Ombudsman shall communicate with the VOP Coordinator for guidance.

**III. Referrals**

A. A resident or complainant is encouraged to make a referral directly to the proper agency or entity. Volunteer Ombudsman should contact the VOP Coordinator to determine the appropriate referral agency.

B. Volunteer Ombudsman will make no complaint referrals to outside agencies or entities without the prior approval of the VOP Coordinator or Local Long-Term Care Ombudsman.

**TITLE:** Response to alleged abuse, neglect and exploitation

**Statutory References:**

Iowa Code 235B  
Iowa Code 235E

**STATEMENT of POLICY:**

The Office of the State Long-Term Care Ombudsman, including the Volunteer Ombudsman Program (VOP), does not investigate allegations of dependent adult or elder abuse and its staff members and volunteers are **not** mandatory reporters. Even if a Volunteer Ombudsman serves a mandatory reporter in the course of their employment, they are not mandatory reporters when serving as a Volunteer Ombudsman.

The Department of Inspections and Appeals (DIA) and the Department of Human Services (DHS) are the official agencies charged with the responsibility to investigate dependent adult abuse allegations. For elder abuse concerns, the victim or interested person should contact a private attorney to pursue civil legal action and/or obtain protective orders. In dependent adult abuse, neglect or exploitation cases, the focus of the Volunteer Ombudsman is to offer support and to consult with the VOP Coordinator. The volunteer may be asked by the VOP Coordinator to provide information and assistance for appropriate referrals regarding the alleged abuse. The Volunteer Ombudsman does not seek to verify the suspected abuse.

**DEFINITIONS:**

**Caretaker:** "Caretaker" means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court. A family member or friend who serves as a fiduciary is also considered a caretaker.

**Dependent Adult:** "Dependent adult" means a person eighteen years of age or older whose ability to perform the normal activities of daily living or to provide for the person's own care or protection is impaired, either temporarily or permanently. Note that a person residing in a long-term care facility is not automatically considered a dependent adult.

**Dependent Adult Abuse:** "Dependent adult abuse" means:

(1) Any of the following as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances:

(a) A physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult which involves a breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances. "Assault of a dependent adult" means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or any act which is intended to place another in fear of immediate physical contact

which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

**(b)** The commission of a sexual offense with or against a dependent adult.

**(c)** Exploitation of a dependent adult. "Exploitation" means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult's funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

**(d)** Neglect of a dependent adult. "Neglect of a dependent adult" means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or physical or mental health.

**(2)** Sexual exploitation of a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. "Sexual exploitation" means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals; or a sex act. "Sexual exploitation" includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing investigation. "Sexual exploitation" does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

**Mandatory Reporter:** A staff member or employee of a facility or program who, in the course of employment, examines, attends, counsels, or treats a dependent adult in a facility or program and reasonably believes the dependent adult has suffered dependent adult abuse, shall report the suspected dependent adult abuse to the department.

#### **PROCEDURE:**

When a Volunteer Ombudsman receives or identifies a concern involving abuse, neglect, or exploitation, the Volunteer Ombudsman shall do the following, according to the applicable scenario outlined below. Volunteers do not make a report to DIA, DHS, or law enforcement without the prior consent of the Office of the State Long-Term Care Ombudsman.

**I. If the resident gives permission to seek resolution to his/her satisfaction:**

- A. Notify the facility point of contact (who is a mandatory reporter), on behalf of the resident, that an allegation of abuse, neglect, or exploitation has been made.
- B. Notify the VOP Coordinator immediately, who will inform the Local Long-Term Care Ombudsman.
  1. Program staff may provide additional resources and information for the Volunteer Ombudsman to provide back to the resident, who may or may not wish to make the report him/herself.
  2. Program staff may permit the Volunteer Ombudsman to make a report to DIA and DHS depending on the circumstances.
- C. Record complaint and action taken in the monthly report.

**II. If the Volunteer Ombudsman witnessed suspected abuse OR a resident has acknowledged suspected abuse has occurred, but the resident does not give permission to seek resolution:**

- A. Notify the VOP Coordinator immediately, who will inform the Local Long-Term Care Ombudsman.
  - 1. Program staff may provide additional resources and information for the Volunteer Ombudsman to provide back to the resident, who may or may not wish to make the report him/herself.
- B. Visit with other residents, without identifying the resident who alleged the abuse, to see if others have had similar experiences.
- C. Determine if any other residents wish the Volunteer Ombudsman to seek resolution (if so, follow item I of this policy).
- D. Encourage the resident to permit the Volunteer Ombudsman to seek resolution (if so, follow item I of this policy).
- E. Record complaint and action taken in the monthly report.

**III. If the resident is unable to communicate his/her wishes:**

- A. Communicate the suspected abuse to the facility point of contact and encourage them to report.
- B. Notify the VOP Coordinator immediately, who will inform the Local Long-Term Care Ombudsman.
  - 1. Program staff may provide additional resources and information for the Volunteer Ombudsman to relay to any other person who is aware of the suspected abuse, who may or may not wish to make the report him/herself.
  - 2. Program staff may permit the Volunteer Ombudsman to make a report to DIA and DHS depending on the circumstances.
- C. Record complaint and action taken in the monthly report.

**IV. If the complainant (not the alleged victimized resident) is a mandatory reporter:**

- A. Remind the complainant of his/her duty of reporting suspected abuse.
- B. Record complaint and action taken in the monthly report.

**V. If the complainant (not the alleged victimized resident) is not a mandatory reporter:**

- A. Provide referral information for making a complaint to DIA/DHS (*see VOP Manual Section I, pages 32-33*).
- B. Record complaint and action taken in the monthly report.

**TITLE:** Volunteer Ombudsman Use of Photography and Recording Devices

**STATEMENT of POLICY:**

The use of photography, video and audio recording of the facility premises, persons inside the facility in whole or in part (resident, visitors, or staff), or materials specific to a resident is not permitted.

**PROCEDURE:**

- I. A breach of this policy, as determined by the Volunteer Ombudsman Program Coordinator, may result in termination from the program.

**TITLE:** Weapons

**STATEMENT of POLICY:**

Volunteer Ombudsmen shall not carry weapons, including weapons for which the volunteer maintains a permit to carry, while visiting their facility.

**PROCEDURE:**

- I. A breach of this policy, as determined by the Volunteer Ombudsman Program Coordinator, may result in termination from the program.

**TITLE:** Volunteer Ombudsman Misrepresentation, Public Statements, and Media Interaction

**STATEMENT of POLICY:**

The Office of the State Long-Term Care Ombudsman and the Volunteer Ombudsman Program (VOP) hold themselves to the highest levels of integrity and will not permit the provision of erroneous or misleading statements or actions by a Volunteer Ombudsman.

Volunteer Ombudsmen may not:

- Serve as a Volunteer Ombudsman in any facility other than their assigned facility.
- Make statements to the media identifying oneself as a Volunteer Ombudsman, or with any respect to the VOP, without the prior consent of the State Long-Term Care Ombudsman.
- Provide statements (written or verbal) or engage in conduct that does not accurately reflect the role of the Volunteer Ombudsman, or the position of the VOP and the Office of the State Long-Term Care Ombudsman.
- Represent oneself as anything above the status of a Volunteer Ombudsman while in service to the program, including the Local Long-Term Care Ombudsman.

**PROCEDURE:**

- I. Volunteer Ombudsmen will observe the policies provided in this manual and will ask for clarification on policies they do not understand.
- II. A breach of this policy, as determined by the Volunteer Ombudsman Program Coordinator, may result in termination from the program.

**TITLE:** Volunteer Ombudsman Gifts

**DEFINITIONS:**

**Gift:** Any tangible consideration including but not limited to food/meals, gift cards, cash, promotional items, greeting cards, household/medical items, cash or in-kind donations, etc.

**STATEMENT of POLICY:**

Volunteer Ombudsmen shall not accept gifts from any party associated with their assigned facility. Gifts to Volunteer Ombudsmen may only be provided by the Volunteer Ombudsman Program/Office of the State Long-Term Care Ombudsman.

Volunteer Ombudsmen shall not provide gifts of any kind to any party associated with their assigned facility.

**PROCEDURE:**

- I. No gifts above the value of \$3.00 offered by any party associated with their assigned facility, including but not limited to residents, visitors, or staff, will be accepted by Volunteer Ombudsmen at any time, on or off the facility premises.
  
- II. Volunteers that violate this policy, as determined by the Volunteer Ombudsman Program Coordinator, may be subject to termination from the program.

**TITLE:** Volunteer Reimbursement

**STATEMENT of POLICY:**

The Volunteer Ombudsman Program (VOP) has a limited budget, and makes all attempts to utilize its funds wisely to benefit as many persons as possible. The VOP accepts that some individual Volunteer Ombudsman expenses are reimbursable at this time, and others are not.

**PROCEDURE:** All Volunteer Ombudsmen that receive reimbursement from the VOP will be required to submit a W-9 Form and acceptable documentation of expenses. Reimbursement is issued by check, typically 4-6 weeks after the submission of all documentation.

- I. **Investigating a Concern Regarding the Quality of Meals:** When many residents express concern regarding the quality of meals served at the facility the Volunteer Ombudsman may determine it is necessary to eat a meal prepared by the facility in order to investigate the concern. Since the provision of a meal without payment could be considered a violation of the Gift Policy (*see policy VO13*), the Volunteer Ombudsman should follow these steps:
  - A. Contact the VOP Coordinator in advance to ask permission to investigate the meal issue by tasting the product.
  - B. Upon permission from the VOP Coordinator, the Volunteer Ombudsman will pay for the cost of the meal at the time of consumption and obtain an itemized receipt.
  - C. After the investigation, the Volunteer Ombudsman will report their findings to the VOP Coordinator and submit the necessary documentation for reimbursement.
- II. **Continuing Education Scholarship:** *See Policy VO6.IV.A.3*
- III. **Mileage:** The Volunteer Ombudsman Program (VOP) is not in a budgetary position to provide mileage reimbursement to its Volunteer Ombudsmen at this time. However, Volunteer Ombudsmen are encouraged to track their mileage which can be deducted as an out-of-pocket expense on their annual income taxes at the rate of 0.14/mile. Contact your tax preparer for more information about how to deduct this expense on your taxes.

**TITLE:** Complaints and Grievances

**STATEMENT of POLICY:**

The Volunteer Ombudsman Program (VOP) strives to provide the highest quality volunteer experience and maintain an excellent reputation. Volunteers are encouraged to bring any concerns about program functionality to the attention of staff.

**PROCEDURE:**

- I. If a Volunteer Ombudsman wishes to make a complaint or issue a grievance about the Volunteer Ombudsman Program (VOP), he/she should follow the following procedure.
  - A. The Volunteer Ombudsman will address their concern with the VOP Coordinator. The VOP Coordinator will take steps to remedy the volunteer's concern. If the VOP Coordinator is the subject of the volunteer's complaint, they may proceed to item I.B. of this policy.
  - B. If the VOP Coordinator cannot remedy the volunteer's concern, the Volunteer Ombudsman may issue a written grievance to the State Long-Term Care Ombudsman.
  - C. The State Long-Term Care Ombudsman, with the assistance of the VOP Coordinator or other parties as deemed appropriate for the nature of the grievance, will take steps to resolve the concern.
  - D. If an agreeable remedy is still not reached, the Volunteer Ombudsman may request to meet with the State Long-Term Care Ombudsman.
  - E. The State Long-Term Care Ombudsman's proposed solution after this meeting shall be final.

**TITLE:** Liability

**Statutory References:**

Public Law 105-19: "Volunteer Protection Act of 1997"

OAA Title VII, Chapter 2, Section 712 (g) and (i) – 42 U.S.C. 3058(g)

Iowa Code 231.42(11)

Iowa Code 669.24 (State Tort Claims – Volunteers)

**STATEMENT of POLICY:**

The Office of the State Long-Term Care Ombudsman ensures that legal representation is available to any Volunteer Ombudsman against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Volunteer Ombudsman. The State ensures that no Volunteer Ombudsman will be liable under State law for the good faith performance of official duties.

No certified Volunteer Ombudsman shall be liable for harm caused by an act or omission of the volunteer on behalf of the Office of the State Long-Term Care Ombudsman if—

- The volunteer was acting within the scope of the volunteer's responsibilities within Volunteer Ombudsman Program (VOP) at the time of the act or omission.
- The harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer. Examples of such conduct may include, but are not limited to:
  - Crimes of violence
  - Hate crimes
  - Sexual offenses
  - Violations of civil rights
  - Being under the influence of alcohol or any drug at the time of misconduct
- The harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle.

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

The State of Iowa, the Office of the State Long-Term Care Ombudsman, and the VOP are not responsible for personal accidents detrimental to Volunteer Ombudsmen during the course of their duties. Volunteer Ombudsmen, in consideration for the opportunity to serve in the VOP, will be required to sign a hold harmless waiver and release prior to certification.

**PROCEDURE:**

- I. If a Volunteer Ombudsman experience legal action or threat of legal action in connection with the performance of the official duties of the Volunteer Ombudsman, they should immediately contact the VOP Coordinator.
  
- II. Prior to certification, each applicant will be required to sign a Volunteer Agreement which includes the following statement: "In consideration of being permitted to be a Volunteer Ombudsman and participate in functions, activities, projects, and work as a volunteer, I do hereby release, waive, discharge, covenant not to sue, and hold harmless the Office of the State Long-Term Care Ombudsman and the Volunteer Ombudsman Program, the State of Iowa, and all their employees, officers, agents, boards, and commissions from any liability, claims, damages, or demands for personal injury or property damage that may be incurred by the undersigned while acting as a Volunteer Ombudsman."

**TITLE:** Volunteer Ombudsman Certification Renewal (Recertification)

**STATEMENT of POLICY:**

New Volunteer Ombudsmen are initially granted certification for one year. Returning Volunteer Ombudsmen (continuing without a gap in service) may be granted certification for a period of up to two years. All Volunteer Ombudsmen who wish to renew their certification—and thereby continue their service with the Volunteer Ombudsman Program (VOP)—are required to complete continuing education, a recertification application, performance review, and program evaluation. Fulfillment of these requirements does not guarantee that a volunteer will be granted recertification; the volunteer's effectiveness, completion of minimum requirements, etc. will also be considered.

**PROCEDURE:**

**I. Notification and paperwork:**

Volunteers will be contacted by the VOP Coordinator approximately two months as well as one month before the expiration of their certification. They will be reminded of the following process, including how much continuing education they have left to complete if any.

- A. **Continuing education:** (see policy VO6.IV)
- B. **Recertification application:** The volunteer will complete a recertification application which includes a conflict of interest screening.
- C. **Performance review:** The VOP Coordinator and the appropriate Local Long-Term Care Ombudsman will complete an evaluation of the volunteer's performance during the most recent period of certification. A copy will be provided to the volunteer, and a consultation may occur if suggestions are provided to the volunteer about how to improve his/her performance.
- D. **Program evaluation:** Volunteers will complete an evaluation of the VOP in order to be assistive to its continued development.

**II. Additional steps**

- A. The program will prepare a letter of recertification and updated credentials and distribute to the Volunteer Ombudsman.
- B. Upon recertification, the Volunteer Ombudsman will destroy notes and written materials pertaining to resident concerns that are no longer a part of an active resolution process. Appropriate methods of destruction are by shredding or burning.
- C. The Volunteer Ombudsman will review and sign any new/updated forms or volunteer agreements provided by the program.
- D. If the Volunteer Ombudsman is switching facilities or adding another facility in addition to their original facility, the volunteer will be required to attend a facility orientation for the new facility with their Local Long-Term Care Ombudsman (see policy VO1.IX).

**TITLE:** Volunteer Ombudsman Resignation

**STATEMENT of POLICY:**

Volunteer Ombudsmen who wish to discontinue their participation in the Volunteer Ombudsman Program (VOP) will provide the courtesy of concluding their service in an orderly fashion.

**PROCEDURE:**

- I. A Volunteer Ombudsman must contact the VOP Coordinator to announce his or her desire to resign from service as a Volunteer Ombudsman.
- II. The VOP Coordinator may suggest options other than resignation to the volunteer, if possible. If it is not possible to retain the volunteer, the VOP Coordinator will request that the resigning Volunteer Ombudsman complete a virtual exit interview.
- III. The VOP Coordinator will prepare and distribute a formal letter to the volunteer accepting their resignation. Copies of the letter will be distributed to administrative staff, the Local Long-Term Care Ombudsman, the State Ombudsman, and the assigned facility point of contact.
- IV. At the time of resignation, all VOP property must be returned to: 510 E. 12th Street, Suite 2, Des Moines, IA 50319 at the former volunteer's expense. This property includes the VOP training manual, Volunteer Ombudsman certification and identification, bag, nametag holder, notebook, reports, business cards, and educational materials.
- V. Any written materials pertaining to facility visits must be destroyed by the volunteer upon resignation. Appropriate methods of destruction include shredding or burning.
- VI. Immediately upon resignation, a former Volunteer Ombudsman is no longer considered a representative of the Office of the State Long-Term Care Ombudsman and therefore is not granted the powers and privileges of a Volunteer Ombudsman under state and federal law.

**TITLE:** Volunteer Ombudsman Retirement

**STATEMENT of POLICY:**

Volunteer Ombudsmen who have served for five or more consecutive years with the Volunteer Ombudsman Program (VOP)—or who have served for no less than one year and have conducted exemplary service as determined by the VOP Coordinator—have the option to retire from service with honors. Volunteer Ombudsmen who wish to conclude their active participation in the VOP will provide the courtesy of retiring their service in an orderly fashion.

**PROCEDURE:**

- I. A Volunteer Ombudsman must contact the VOP Coordinator to announce his or her desire to retire from service as a Volunteer Ombudsman.
- II. The VOP Coordinator will request that the retiring Volunteer Ombudsman complete a virtual exit interview.
- III. The VOP Coordinator will prepare and distribute a formal letter to the volunteer accepting their retirement. Copies of the letter will be distributed to the administrative staff, the Local Long-Term Care Ombudsman, the State Ombudsman, and the assigned facility point of contact.
- IV. Retiring Volunteer Ombudsman may elect to retain their VOP materials as a memento of service. If the volunteer does not wish to retain their materials, they may return them to: 510 E. 12th Street, Suite 2, Des Moines, IA 50319. However, the retired volunteer shall no longer distribute material that once indicated their status as a certified Volunteer Ombudsman.
- V. Any written materials pertaining to facility visits must be destroyed by the volunteer upon retirement. Appropriate methods of destruction include shredding or burning.
- VI. A retired Volunteer Ombudsman is no longer considered a representative of the Office of the State Long-Term Care Ombudsman and therefore is not granted the powers and privileges of a Volunteer Ombudsman under state and federal law.
- VII. According to their preference, a retired Volunteer Ombudsman may continue to receive the VOP Voice Newsletter and maintain a standing invitation to attend VOP Regional Gatherings.

**TITLE:** Complaints against Volunteers, Corrective Action, and Decertification  
(Termination)

**STATEMENT of POLICY:**

Service as a certified Volunteer Ombudsman is a privilege which is revocable at any time. Volunteer Ombudsmen will be held accountable for their actions or inactions which are in violation of written policies or which are harmful to the intent, effectiveness, or reputation of the Volunteer Ombudsman Program (VOP). Complaints against a Volunteer Ombudsman may be made by facility staff, residents, residents' representatives, concerned members of the public, the VOP, or the Office of the State Long-Term Care Ombudsman.

**PROCEDURE:**

Depending on the severity and accuracy of the complaint, Volunteer Ombudsmen may be subject to disciplinary action up to and including termination from the VOP. Complaints will be considered to be received by the VOP when the complainant contacts a VOP Coordinator or the State Long-Term Care Ombudsman directly. Thus, concerns submitted on behalf of a concerned person by a third party (including a Local Long-Term Care Ombudsman) will not be considered as actionable.

- I. **Formal complaints:** For each complaint the VOP receives against a Volunteer Ombudsman, the complainant will be asked if they wish to file a formal complaint. Submission of a formal complaint will require the complaining party to identify themselves (thus, no anonymous formal complaints). If so, the complainant will be asked to submit their concerns via the VOP Formal Complaint Form.
  - A. Upon receipt of the completed Formal Complaint Form,
    1. The volunteer will be notified of the complaint received.
    2. The VOP Coordinator will investigate the allegation by contacting the applicable parties to determine the validity of the complaint, and what further action is needed, if any.
  - B. If deemed necessary by the VOP Coordinator, a corrective action plan may be developed which may include volunteer re-education, increased monitoring, direct supervision by a VOP Coordinator or Local Long-Term Care Ombudsman, progress meetings, facility re-assignment, or other corrective measures as determined appropriate for the circumstances. All corrective action plans will contain an estimated completion date.
    1. All plans of correction, progress reports, and conclusive results of action plans will be documented in writing and stored in the volunteer's electronic file.
    2. Volunteers may or may not be permitted to continue independent facility visits in whole or in part while a plan of correction is in place.
    3. Formal complaints received and the volunteer's progress regarding corrective action plans will be considered at the time of Volunteer Ombudsman Recertification.

- C. A written follow up will be provided to the complainant and will be delivered to the contact address that was provided upon registering the formal complaint.
  - D. The severity of some formal complaints, if substantiated, may not warrant a corrective action plan. In these instances, immediate termination may be recommended by a VOP Coordinator.
  - E. Volunteers will be permitted no more than two plans of corrective action during their current period of certification. This means that a Volunteer Ombudsman will be terminated from the program if a third substantiated formal complaint is received.
- II. **Informal complaints:** Complaints received by the VOP in which the complainant does not wish to register a formal complaint will be reviewed. Any subsequent action will be implemented on a case by case basis, as deemed appropriate by the VOP Coordinator. Informal complainants have no guarantee of follow up from the VOP.
- III. **Decertification (Termination):** If it is determined by the VOP Coordinator and the State Long-Term Care Ombudsman that the next appropriate action is decertification of a Volunteer Ombudsman, the following process will occur. Any further action, such as the report of any abuse and/or criminal activity, may also be pursued according to the prevailing circumstances.
- A. The Volunteer Ombudsman will be verbally informed of the VOP's decision to decertify. The date of this conversation will be considered as the date of decertification.
  - B. The VOP Coordinator will prepare and distribute a formal letter to the volunteer confirming their decertification. Copies of the letter will be distributed to administrative staff, the Local Long-Term Care Ombudsman, the State Ombudsman, and the assigned facility point of contact.
  - C. At the time of decertification, all VOP property must be returned to: 510 E. 12th Street, Suite 2, Des Moines, IA 50319 at the former volunteer's expense. This property includes the VOP training manual, Volunteer Ombudsman certification and identification, bag, nametag holder, notebook, reports, business cards, and educational materials.
  - D. Any written materials pertaining to facility visits must be destroyed by the volunteer upon decertification. Appropriate methods of destruction include shredding or burning.
  - E. Immediately upon decertification, a former Volunteer Ombudsman is no longer considered a representative of the Office of the State Long-Term Care Ombudsman and therefore is not granted the powers and privileges of a Volunteer Ombudsman under state and federal law.
  - F. Individuals who have been de-certified (terminated) from the VOP will not be permitted to serve in the program in any voluntary capacity in the future.

**TITLE:** Interference and Retaliation

**Statutory references:**

Iowa Code 231.42.8

Iowa Code 231.42.9

Iowa Administrative Code 17—8.2

Older Americans Act 712j—42 U.S.C. 3058g(j) (noninterference)

**STATEMENT of POLICY:**

An officer, owner, director, or employee of a long-term care facility who intentionally prevents, interferes with, or attempts to impede the work of a certified volunteer is subject to a penalty imposed by the director (of the Department on Aging) of not more than one thousand five hundred dollars for each violation.

An officer, owner, director, or employee of a long-term care facility shall not retaliate against any person for having filed a complaint with, or provided information to, a certified volunteer. A person who retaliates or discriminates in violation of this subsection (Iowa Code 231.42.9) is guilty of a simple misdemeanor.

**PROCEDURE:**

If the Volunteer Ombudsman experiences inference, retaliation, or has been apprised of retaliation enacted on another person, the volunteer will:

- I. Record the details of the interference and/or retaliation
- II. Notify the Volunteer Ombudsman Program Coordinator