

**NEW YORK STATE OFFICE FOR THE AGING**

2 Empire State Plaza, Albany, NY 12223-1251

Andrew M. Cuomo, Governor

An Equal Opportunity Employer

Greg Olsen, Acting Director

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| <b>PROGRAM INSTRUCTION</b> | <b>Number 19-PI-20</b> |
|                            | <b>Supersedes</b>      |
|                            | <b>Expiration Date</b> |

**DATE:** August 22, 2019

**TO:** Long-Term Care Ombudsman Regional Coordinators

**SUBJECT:** New York State Long-Term Care Ombudsman Program Grievance Policy

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**ACTION REQUESTED:** This Program Instruction describes the procedure that the State Long-Term Care Ombudsman will follow when reviewing grievances regarding determinations or actions taken by the State Long-Term Care Ombudsman (State Ombudsman) or the State Ombudsman’s designees. Depending on the nature of the grievance, the State Ombudsman has the authority to designate a Regional Ombudsman Coordinator to review a grievance. If this occurs the designee will follow the procedure outlined in this Program Instruction.

**RESPONSE DUE DATE:** N/A

**PURPOSE:** To set the procedure to be followed for grieving determinations or actions of the State Long-Term Care Ombudsman or other Long-Term Care Ombudsmen.

**BACKGROUND:** The State Ombudsman or the State Ombudsman’s designee shall review grievances regarding determinations or actions of any Long-Term Care Ombudsman (Ombudsman). However, any grievance regarding determinations or actions of the State Ombudsman will be reviewed by the Director of the New York State Office for the Aging (NYSOFA) or the Director’s designee.

All such grievances must be submitted in writing. If an individual is unable to submit the grievance in writing, the staff member receiving the grievance will assist with

documenting the grievance. All grievances must contain the following information:

1. Contact information for person filing the grievance (name, phone number, e-mail or mailing address)
2. The nature of the grievance
  - a. Name of the person/program the grievance is being filed against
  - b. Date and time of the incident
  - c. Location of the incident
  - d. Description of the incident
3. Specific facts supporting the allegation
  - a. Any documentation related to the incident
  - b. Names of others involved or witnesses
4. The complainant's desired resolution of the grievance

### **Procedure**

- A. Upon receipt of a grievance, the individual reviewing the grievance shall attempt to contact the complainant by telephone, email or letter within 10 business days to acknowledge the receipt of the grievance, explain the grievance process, and clarify or obtain further information.
- B. For grievances regarding actions taken or determinations made by Ombudsman Program staff or volunteers (excluding the State Ombudsman) all efforts will be made to complete the investigation within 60 business days of receipt of grievance by the Office of the State Long Term Care Ombudsman. If it appears that the investigation cannot be completed within 60 business days, the State Ombudsman will notify in writing the individual who filed the grievance with an expected date of completion.
  1. The State Ombudsman may modify the duties of the Ombudsman until the investigation is completed and/or there is a resolution of the grievance.
  2. The State Ombudsman will provide the individual who filed the grievance with a written response within 30 business days of the completion of the investigation. The response will follow any applicable Office of the Long-Term Care Ombudsman confidentiality practices regarding records.
  3. All decisions of the State Ombudsman will be final.
  4. Upon notice, the New York State Ombudsman may suspend any of the timeframes enumerated in this section.
- C. Grievances regarding actions taken or determinations made by the State Ombudsman will be investigated by the Director of NYSOFA or designee. All efforts will be made to complete the investigation within 60 business days of the receipt. If it appears that the investigation cannot be completed within 60

business days, NYSOFA will notify in writing the individual who filed the grievance with an expected date of completion.

1. The Director of NYSOFA may suspend, within applicable State employment practices, the State Ombudsman until the investigation is completed and/or there is a resolution of the grievance.
2. The Director of NYSOFA will provide the complainant with a written response to their grievance within 30 business days of the completion of the investigation. To the extent applicable, the response will follow any applicable Office of the Long-Term Care Ombudsman confidentiality policies regarding records.
3. All decisions of the Director of NYSOFA will be final and in compliance with State employment practices and regulations.
4. Upon notice, the Director of NYSOFA may suspend any of the timeframes enumerated in this section.

D. Grievances regarding the decision to refuse, suspend or remove the certification of an Ombudsman will be reviewed by the State Ombudsman or designee. All efforts will be made to complete the review within 60 business days of receipt of a grievance by the Office of the Long-Term Care Ombudsman. If it appears that the review cannot be completed within 60 business days, the State Ombudsman will notify the individual in writing who filed the grievance with an expected date of completion. All grievances must be in writing and contain the specific facts that support the individual's grievance against the refusal, suspension or de-certification.

1. All efforts will be made to provide the individual who filed the grievance with a final written decision within 30 business days of the completion of the investigation.
2. All decisions of the State Ombudsman will be final.
3. Upon notice, the New York State Ombudsman may suspend any of the timeframes enumerated in this section.

E. Grievances regarding the decision to suspend or remove the certification of a regional ombudsman entity will be reviewed by the State Ombudsman or designee. All efforts will be made to complete the review within 60 business days of receipt of a grievance by the Office of the Long-Term Care Ombudsman. If it appears that the review cannot be completed within 60 business days, the State Ombudsman will notify the individual in writing who filed the grievance with an expected date of completion. All grievances must be in writing and contain the specific facts that support the individual's grievance against the suspension or de-certification.

1. All efforts will be made to provide the individual who filed the grievance with a final written decision within 30 business days of the completion of the investigation.
2. All decisions of the State Ombudsman will be final.
3. Upon notice, the New York State Ombudsman may suspend any of the timeframes enumerated in this section.

F. Grievances regarding the non-selection of a regional ombudsman entity will be handled through the New York State contracting procedures.

**PROGRAMS AFFECTED:**

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|--------------------------------------|--|---|
| <input type="checkbox"/> Title III-B | <input type="checkbox"/> Title III-C-1 | <input type="checkbox"/> Title III-C-2    |
| <input type="checkbox"/> Title III-D | <input type="checkbox"/> Title III-E   | <input type="checkbox"/> CSE              |
| <input type="checkbox"/> EISEP       | <input type="checkbox"/> NSIP          | <input type="checkbox"/> Title V          |
| <input type="checkbox"/> NY Connects | <input type="checkbox"/> Other:        | <input type="checkbox"/> WIN              |
|                                      |  | <input type="checkbox"/> HIICAP           |
|                                      |  | <input checked="" type="checkbox"/> LTCOP |

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