

**WAC 365-18-110 Confidentiality of ombudsman records, communications privileged.** (1) All records and files maintained by the long-term care ombudsman program shall remain confidential. Any disclosure of long-term care ombudsman program records is subject to the following provisions:

(a) No disclosure shall be made without the prior approval of the state ombudsman or his or her representative.

(b) No disclosure of the identities of complainants, witnesses, clients, or residents shall be made unless one of the following conditions has been met:

(i) The complainant or resident, or their legal representative consents in writing to the disclosure; or

(ii) The complainant or resident gives oral consent, and that consent is documented contemporaneously in writing by a representative of the state office; or

(iii) The disclosure is required by court order.

(c) Nonidentifying information or statistics may be disclosed at the discretion of the state ombudsman or his or her representative.

(2) All communications by an ombudsman, if reasonably related to the requirements of that individual's responsibilities under this chapter or federal or state statutes and done in good faith, are privileged. That privilege shall serve as a defense to any action in libel or slander. Ombudsmen are exempt from being required to testify in court, administrative hearings, or depositions as to any confidential matters, except as the court may deem necessary to enforce this chapter.

(3) In monitoring the state office and regional ombudsmen programs, subject to the discretion of the state ombudsman, access to the ombudsman files and records, minus identifying information regarding any resident, complainant, or witness, shall be available to the director or one senior manager of the department and the organization in which the ombudsman program is administratively located. The individual who performs this monitoring function shall have no conflict of interest, as provided in WAC 365-18-040(2).

[Statutory Authority: Chapter 43.190 RCW and Older Americans Act of 1965 (42 U.S.C., 3001 et seq., as amended). WSR 00-09-060, § 365-18-110, filed 4/17/00, effective 5/18/00.]