



GOVERNOR'S OFFICE OF ELDERLY AFFAIRS
POLICY AND PROCEDURE MANUAL

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STATE AGENCY ON AGING

§1101. Office of Elderly Affairs

A. Authority, Organization, and Purpose

1. Chapter 7 of Title 46 of the Louisiana Revised Statutes of 1950 (R.S. 46:931 et seq.) provides for the establishment and administration of the Office of Elderly Affairs (GOEA) within the Office of the Governor.
2. GOEA serves as the focal point for the development and administration of public policy regarding Louisiana's elderly citizens. GOEA is the sole state agency designated by the governor and the legislature to develop and administer the state plan on aging. GOEA also administers the Long Term Care Ombudsman Program.

B. Powers and Responsibilities

1. GOEA has the following powers and duties under state law:
 - a. to administer the Older Americans Act and related programs;
 - b. to collect facts and statistics and make special studies of conditions pertaining to the employment, health, financial status, recreation, social adjustment or other conditions affecting the welfare of the aged;
 - c. to keep abreast of the latest developments in aging throughout the nation and to interpret such findings to the public;
 - d. to provide for a mutual exchange of ideas and information on the national, state, and local levels;
 - e. to conduct hearings and to subpoena witnesses;
 - f. to make recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the aging in the state;
 - g. to adopt and promulgate rules and regulations deemed necessary to implement the provisions of the law in accordance with the Administrative Procedure Act;
 - h. to exercise the functions of the state relative to nutrition programs for the elderly and handicapped citizens of Louisiana;
 - i. to operate the Office of the State Long Term Care Ombudsman;
 - j. to administer all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, whether by block grant or in any other form, with the exception of funds for programs administered by the Department of Children and Family Services or the Department of Health and Hospitals, on August 15, 1995, and to distribute those funds in accordance with and consistent with R.S. 46:936;

- k. to approve recommendations from any parish voluntary council on aging prior to the creation of a new state-funded senior center in the state, and
- l. to provide meeting space and staff support for the Executive Board on Aging [R.S. 46:933(G)].

C. Functions of the Governor's Office of Elderly Affairs

1. Administrative Functions—

- a. to develop and follow written policies in carrying out its functions under state and federal laws and regulations;
- b. to develop and enforce policies governing all aspects of programs operating under the Older Americans Act, whether operated directly or under contract;
- c. to manage and control funds received from federal and state sources;

2. Advocacy Functions—

- a. to review, monitor, evaluate and comment on all federal, state and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and recommend any changes in these which GOEA considers to be appropriate;
- b. to review and comment, upon request, on applications to state and federal agencies for assistance in meeting the needs of the elderly;
- c. to consolidate and coordinate multiple state and federal resources to facilitate the development of comprehensive community-based services for the elderly; and
- d. to develop financial resources for programs on aging beyond those allocated under the Older Americans Act.

3. Service Systems Development Functions—

- a. to develop and administer the state plan on aging;
- b. to be primarily responsible for the planning, policy development, administration, coordination, priority setting and evaluation of all state activities related to the objectives of the Older Americans Act;
- c. to divide the state into distinct planning and service areas, in accordance with guidelines issued by the Administration on Aging;
- d. to designate for each planning and service area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging (AAA) for such area;

- e. in consultation with area agencies on aging, in accordance with guidelines issued by the Administration on Aging, and using the best available data, to develop and publish, for review and comment, a formula for distribution within the state of funds received under Title III of the Older Americans act that takes into account:
 - i. the geographical distribution of older individuals in the state; and
 - ii. the distribution among planning and service areas of older individuals with greatest economic need and/or greatest social need, with particular attention to low-income minority older individuals;
- f. to develop Elder Rights Protection Systems focused on protecting the rights of vulnerable older individuals who reside in the community and in institutional settings. It includes the provision of Long Term Care Ombudsman services; Legal Assistance Development.

D. Governor's Office of Elderly Affairs Administration

1. Policies

- a. OEA shall develop and enforce written policies in carrying out its functions under state and federal laws and regulations. These policies shall be developed in consultation with other appropriate parties within the state. GOEA shall keep its policies current, and revise them as necessary in accordance with the Louisiana Administrative Procedure Act.

2. Program Monitoring

- a. OEA shall monitor the performance of all programs and activities initiated under the Older Americans Act for quality and effectiveness:

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, OAA Sections 203, 305, 307 and 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2199 (November 1999), LR 28:1016 (May 2002), LR 31:1330 (June 2005), LR 42: 1508 (September 2016)

§1103. The Louisiana Executive Board on Aging

A. Composition, Appointment and Tenure

- 1. The Louisiana Executive Board on Aging, hereafter referred to as "the board," shall consist of 15 members appointed as follows:
 - a. the President of the Senate shall appoint five members, one from each of the five districts of the Public Service Commission;
 - b. the Speaker of the House shall appoint five members of Representatives, one from each of the five districts of the Public Service Commission; and

- c. the Governor shall appoint five members, one from each of the five districts of the Public Service Commission. Each appointment by the Governor shall be submitted to the Senate for confirmation.
2. Qualifications
 - a. Members of the board shall have a recognized interest in and knowledge of the problems of aging. None of the members of the board shall be elected officials or paid employees of the state of Louisiana. Preference shall be given to persons 60 years of age and older.
 - b. A person is not eligible for appointment to the board if the person or the person's spouse either:
 - i. is employed by a business entity or other organization regulated by or receiving funds from the GOEA; or
 - ii. owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from the GOEA.
3. Nominations and Appointments
 - a. Nominations for the board shall be solicited from:
 - i. the Louisiana Association of Councils on Aging, the Louisiana State Medical Society;
 - ii. the Louisiana State Bar Association;
 - iii. the National Association of Social Workers—Louisiana Chapter;
 - iv. the American Association of Retired Persons;
 - v. the Louisiana Association of Business and Industry;
 - vi. the AFL-CIO;
 - vii. the Louisiana Geriatric Education Center;
 - viii. the Louisiana Interchurch Conference; and
 - ix. other entities as appropriate.
 - b. Appointments shall be made from the list of names submitted in accordance with §1103.A.1.
4. Terms of Office
 - a. The terms of office of members of the board shall be five years except that the appointing authority shall appoint the original members as follows:
 - i. five members for a term of one year;
 - ii. five members for a term of two years; and

- iii. five members for a term of three years.
 - b. Vacancies shall be filled by appointment by the Governor only for the remainder of the unexpired terms.
- B. Functions of the Louisiana Executive Board on Aging
- 1. To advise and report to the GOEA executive director on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly in Louisiana.
 - 2. To advise the GOEA executive director on matters of policy and on all rules and regulations promulgated by the office.
 - 3. To review and recommend the revocation of the charter of any parish voluntary council on aging for noncompliance with law, policies and/or regulations.
- C. Organization of the Board
- 1. The board shall meet and organize immediately after appointment of the members and shall elect from its membership a slate of officers other than chairperson, whom the Governor shall appoint. The board shall elect any officers, other than the chairperson, it deems necessary. The duties of such officers shall be those customarily performed by such officers.
 - 2. The board shall meet at least once per quarter of the fiscal year, and as often thereafter as deemed necessary by the chairperson. A majority of members of the board shall constitute a quorum.
 - 3. The board shall adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, findings, and determinations.
- D. Duties and Responsibilities
- 1. The board shall adopt rules governing the functions of the GOEA, including rules that prescribe the policies and procedures followed by the board and the GOEA in the administration of its programs, all in accordance with the Administrative Procedure Act.
 - 2. The board shall review and make recommendations to the GOEA executive director on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly of the state.
 - 3. The board shall approve matters of policy and all rules and regulations promulgated by the board or the GOEA which pertain to elderly affairs and voluntary parish councils on aging.
 - 4. The board shall prepare and submit an annual report to the legislature and to the Governor 60 days prior to the legislative session.
 - 5. The board by rule or its order may delegate any portion of its rights, powers, and duties to the GOEA executive director.
 - 6. The board may recommend discharge of the GOEA executive director.

E. Compensation

1. Members shall serve without salary, but shall be reimbursed at the established per diem rate for attendance at board and committee meetings.
2. Members shall be reimbursed for actual travel and other expenses incurred while in the performance of their duties in accordance with the division of administration regulations.

§1107. Planning and Service Area Designation

A. General Rules

1. In accordance with Section 305 of the Older Americans Act (the Act), the GOEA shall divide the state into distinct planning and service areas (PSAs) after considering the geographical distribution of individuals aged 60 and older in the state; the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance; the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such areas; the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such areas; the distribution of older Indians residing in such areas; the distribution of resources available to provide such services or centers; the boundaries of existing areas within the state that were drawn for the planning or administration of supportive service programs; the location of units of general purpose local government within the state; and any other relevant factors.
2. Starting with the state plan on aging beginning October 1, 2000, the GOEA shall accept applications for PSA designation received from eligible applicants on or before November 1 of the year immediately preceding the final year of the state plan period. Any designation so approved shall become effective on the first day of the next area plan and shall remain in effect throughout the duration of the approved area plan.
3. The GOEA may include in any planning and service area such additional areas adjacent to the unit of general purpose local government, region, metropolitan area, or Indian reservation so designated as the GOEA determines to be necessary for, and will enhance the effective administration of the programs authorized by Title III of the Older Americans Act.
4. The GOEA may include the area covered by the appropriate economic development district involved in any planning and service area designated and may include all portions of an Indian reservation within a single planning and service area.

B. Eligible Applicants. The governing body of any unit of general purpose local government, region within the state recognized for area wide planning, metropolitan area, or Indian reservation may apply for its geographical area of jurisdiction to be a designated planning and service area.

C. Application Procedure for PSA Designation

1. Eligible applicants requesting PSA designation shall submit applications based upon a uniform format prescribed by the GOEA. Each such application shall include:
 - a. a signed resolution by the governing body of the applicant organization authorizing the request for designation of the unit of general purpose local government, region within the state recognized for area wide planning, metropolitan area, or Indian reservation as a planning and service area;
 - b. a narrative and statistical description of:
 - i. the number of individuals aged 60 and older in the proposed PSA;
 - ii. the number of older individuals who have the greatest economic need (including low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in the proposed PSA;
 - iii. the number of older individuals who have the greatest social need (including low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in the proposed PSA;
 - iv. the number of older individuals who are Indians residing in the proposed PSA;
 - c. the incidence of need for supportive services, nutrition services, multipurpose senior centers, and legal assistance in the proposed PSA;
 - d. the distribution of resources available to provide such services or centers in the proposed PSA;
 - e. the boundaries of existing areas within the proposed PSA drawn for the planning or administration of supportive and/or nutrition services programs;
 - f. the location of units of general purpose local government within the proposed PSA; and
 - g. a list of multipurpose senior centers and agencies providing supportive and/or nutrition services in the proposed PSA including services supported by Title III of the Older Americans Act.
2. If the proposed PSA's boundaries are either a combination or subdivision of existing planning and service areas, the application shall address the basis of need for the merger or separation.

3. Applications from units of general purpose local government shall include a statement of whether the unit desires to exercise the right to first refusal of an area agency on aging designation. If the unit chooses not to exercise this right, the application shall include a statement of preference for another agency or organization to be the designated area agency on aging for the proposed PSA.
4. Applications for PSA designation shall be signed by the chief elected official representing the unit of general purpose local government, region within the State recognized for area wide planning, metropolitan area, or Indian reservation.

D. Criteria for Approval of PSA Designation Applications

1. The application must be received by the GOEA within the time frame prescribed in §1107.A.2.
2. The application must be completed, including all required documentation and signatures. Incomplete applications may be returned and refused for reconsideration at the discretion of the GOEA executive director.
3. The application must clearly demonstrate that the designation of the proposed PSA is necessary for, and will enhance, the effective administration of the programs authorized by Title III of the Older Americans Act.

E. Procedure for Due Process to Affected Parties

1. The GOEA shall approve or disapprove any application received under §1107.C.1.
2. Any applicant under §1107.B whose application for designation as a PSA is denied by the GOEA may appeal the denial under the procedures specified in LAC 4:VII.1269.

§1109. Area Agency on Aging Designation

A. General Rules

1. The GOEA shall designate a public or private nonprofit agency or organization as the area agency on aging (AAA) for each PSA after consideration of the views offered by the unit or units of general purpose local government in each such PSA.
2. The GOEA shall not designate any regional or local office of the state as an AAA.
3. Whenever the GOEA designates a new AAA, the GOEA shall give the right of first refusal to a unit of general purpose local government if such unit can meet the requirements of Sec. 305(c) of the Older Americans Act and the boundaries of such a unit and the boundaries of the PSA are reasonably contiguous.
4. If the unit of general purpose local government chooses not to exercise the right of first refusal, the GOEA shall publicly solicit applications for designation as an AAA and shall give preference to an established office on aging as defined in §1109.B.1.a.

5. The GOEA shall take into account the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under the state plan when designating AAAs.

B. Eligible Applicants for AAA Designation

1. Any of the following may apply for designation as an AAA:
 - a. an established office on aging which is operating within the PSA. The term "established office on aging" means a public or private nonprofit agency/organization that has functioned for at least one year for the purpose of planning, developing or administering aging service programs. The agency/organization must be capable of functioning effectively throughout the PSA designated by the GOEA;
 - b. any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an AAA by the chief elected official of such unit;
 - c. any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only in behalf of such combination for the purpose of serving as an AAA;
 - d. any other public or private nonprofit agency in a PSA, or any separate organizational unit within such agency, which is under the GOEA's supervision or direction for this purpose and which can and will engage only in the planning or provision of a broad range of supportive services, or nutrition services within such PSA.

C. Application Procedure for AAA Designation

1. Eligible Applicants for AAA designation shall submit a written application in the format prescribed by the GOEA.
2. Applications for AAA designation shall include:
 - a. the legal basis upon which the agency is organized;
 - b. a list of members serving on the governing body and the agencies/organizations they represent;
 - c. a copy of the agency's most recent audit;
 - d. a copy of the agency's current approved financial plan;
 - e. an organizational chart depicting the manner in which the agency's staff will be divided to fulfill its AAA responsibilities;
 - f. job descriptions reflecting the proposed AAA's intent to carry out the advocacy, planning, coordination, inter-agency linkages, information sharing, brokering, monitoring and evaluation functions;
 - g. assurances that the agency, once designated, shall provide for an adequate and qualified staff to perform all of the AAA functions prescribed in the Older Americans Act; and

h. such other information as the GOEA deems necessary.

D. Criteria for Approval of Applications for an AAA Designation

1. The application must be submitted in a timely manner, including all required documentation. Incomplete applications may be returned and refused for reconsideration at the discretion of the GOEA executive director.
2. The agency applying for an AAA designation shall provide an opportunity for on-site review and assessment by the GOEA to ensure that said organization has the capacity to perform the functions of an AAA.
3. Applications must demonstrate that the agency, if designated, will have the ability to fulfill the mission of an AAA.

E. Procedure for Due Process to Affected Parties

1. The GOEA shall approve or disapprove any application received under §1109.C.1.
2. Any applicant under §1109.B whose application for designation as an AAA is denied by the GOEA may appeal the denial under the procedures specified in LAC 4:VII.1267.

F. Duration of an AAA Designation

1. The designated AAA shall function in that capacity for the duration of the area plan unless the AAA informs the GOEA that it no longer wishes to carry out the responsibilities of an AAA or the GOEA withdraws the designation as provided in §1109.G.

G. Withdrawal of an AAA Designation

1. The GOEA shall withdraw the AAA designation whenever the GOEA, after reasonable notice and opportunity for a hearing, finds that:
 - a. the AAA does not meet the requirements of 45 CFR 1321; or
 - b. the plan or plan amendment is not approved; or
 - c. there is substantial failure in the provisions or administration of an approved area plan to comply with any provision of 45 CFR 1321 or the GOEA Policy Manual; or
 - d. activities of the AAA are inconsistent with the statutory mission prescribed in the Act or in conflict with the requirement that it function only as an AAA.
2. If the GOEA withdraws the AAA's designation, it shall:
 - a. provide a plan for the continuity of an AAA functions and services in the affected planning and service area; and
 - b. designate a new AAA in a timely manner.
3. If necessary to ensure continuity of service in a planning and service area, the GOEA may, for a period up to 180 days after its final decision to withdraw the designation of an AAA:

- a. perform the responsibilities of the AAA; or
 - b. assign the responsibilities of the AAA to another agency in the planning and service area.
4. The Assistant Secretary of the Administration on Aging may extend the 180-day period if the GOEA:
- a. notifies the Assistant Secretary in writing of its action;
 - b. requests an extension; and
 - c. demonstrates to the satisfaction of the Assistant Secretary a need for the extension.

AREA AGENCY ON AGING

§1121. Definitions

See Glossary

§1123. Purpose of the Area Agency on Aging

- A. Area Agencies on Aging (AAA) receive funds from the State Agency on Aging to plan, develop, coordinate and arrange for services in their respective planning and service areas (PSA). As advocates, AAAs use Older Americans Act (OAA) funds to leverage state and local resources to expand and improve services. AAA's contract with public or private groups to provide services paid for using OAA funds. In some cases, the AAA may act as the service provider.
- B. The AAA shall be the leader relative to all aging issues on behalf of all older persons in the PSA. This means the AAA shall carry out a wide range of functions related to advocacy, planning, coordination, inter-agency linkages, information sharing, brokering, monitoring and evaluation, designed to lead to the development or enhancement of comprehensive and coordinated community based systems in, or serving, each community in the PSA. These systems shall be designed to assist older persons in leading independent, meaningful and dignified lives in their own homes and communities as long as possible.
- C. A comprehensive and coordinated community based system described in §1123.B. of this manual shall:
 1. have a visible focal point of contact where anyone can go or call for help, information or referral on any aging issue;
 2. provide a range of options;
 3. assure that these options are readily accessible to all older persons (the independent, semi-dependent and totally dependent) no matter what their income;
 4. include a commitment of public, private, voluntary and personal resources committed to supporting the system;
 5. involve collaborative decision-making among public, private, voluntary, religious and fraternal organizations and older people in the community;
 6. offer special help or targeted resources for the most vulnerable older persons, those in danger of losing their independence;
 7. provide effective referral from agency to agency to assure that information or assistance is received, no matter how or where contact is made in the community;

8. evidence sufficient flexibility to respond with appropriate individualized assistance, especially for the vulnerable older person;
9. have a unique character which is tailored to the specific nature of the community; and
10. be directed by leaders in the community who have the respect, capacity and authority necessary to convene all interested persons, assess needs, design solutions, track overall success, stimulate change and plan community resources for the present and for the future.

§1125. Area Agency on Aging Standards

A. Planning

1. The AAA shall determine its objectives systematically after making a finding of need and determination of priorities within the PSA.
2. The AAA shall establish a mechanism to ensure that objectives are monitored and accomplished as set forth in the Area Plan.
3. The AAA shall install a workable system for ongoing data collection in the PSA.
4. The AAA shall implement a workable system for determining the needs of older persons within the PSA.
5. The AAA shall establish a mechanism for determining and analyzing on an ongoing basis the existing services and resources available in the PSA to meet the needs of older persons and the extent to which such resources meet identified needs.

B. Leadership/Advocacy

1. The AAA shall act as the focal point in the PSA for activities which promote comprehensive and coordinated services for older persons.
2. The AAA shall operate a public information program in the PSA focusing on needs and concerns of seniors in the PSA.

C. Pooling/Coordination

1. The AAA shall establish linkages with public and private agencies in the PSA for the purpose of fostering comprehensive and coordinated services to older persons.
2. The AAA shall effect joint program agreements with other agencies in the PSA.
3. The AAA shall identify and tap potential resources to be directed toward inaugurating, expanding or improving services to older persons.
4. Each AAA shall coordinate services described in the OAA Section. 321.(a) with other community agencies and voluntary organizations providing the same services. In coordinating the services, the AAA shall make efforts to coordinate the services with agencies and organizations carrying out intergenerational programs or projects.

5. Where possible, the AAA shall enter into arrangements with organizations providing day care services for children or assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families.
6. The AAA shall facilitate the coordination of community-based, long-term care services designed to enable older individuals to remain in their homes, by means including:
 - a. development of case management services as a component of the long-term care services, consistent with the requirements of the OAA Section. 306.(a)(8);
 - b. involvement of long-term care providers in the coordination of such services; and
 - c. increasing community awareness of and involvement in addressing the needs of residents of long-term care facilities.
7. The AAA shall establish procedures for coordination of services with entities conducting other Federal or federally assisted programs for older individuals at the local level, with particular emphasis on entities conducting programs described in the OAA Section. 203.(b) within the planning and service area.

D. Monitoring, Assessment and Provision of Technical Assistance

1. The AAA shall develop and employ a mechanism for regularly monitoring subcontracts under the Area Plan.
2. The AAA shall develop and implement systematic procedures for regular assessments of subcontracts under the Area Plan.
3. The AAA shall develop and implement a plan for providing technical assistance to subcontractors under the Area Plan and to other organizations in the PSA concerned with the needs of older persons.

E. Contracts Management

1. The AAA shall develop and issue standardized application kits and procedures for applications for funds under the Area Plan.
2. The AAA shall develop standardized procedures and criteria for review of applications for funds under the Area Plan.
3. Selection criteria and procedures for the award of subcontracts shall be published and disseminated to agencies applying for Title III funds.
4. The AAA shall maintain on file selection criteria and procedures used for the award of subcontracts.
5. The AAA shall consult with the advisory council before awarding subcontracts.
6. Where the AAA encounters delays in the review of proposals, applicants shall be notified.

7. The AAA shall establish and disseminate appeals procedures for subcontract proposals which are denied approval.
8. The AAA shall maintain documentation supporting all of its subcontracts.
9. Notifications of approval and disapproval of proposals shall be issued in writing and on a timely basis.
10. The AAA shall develop and implement procedures for amendments to subcontract awards.
11. Proposals of subcontractors which receive funds shall contain clearly defined objectives that are in keeping with those included in the approved Area Plan.
12. Subcontracts awarded shall define the relationship between the AAA and the subcontractor.
13. The AAA shall establish written procedures governing the management and operation of subcontracts which are in keeping with federal and state laws, regulations, policies and procedures. The procedures shall be communicated to agencies conducting subcontracts under the Area Plan.
14. Agencies conducting subcontracts under the Area Plan shall meet the requirements for licensure, if required.
15. Where there are multi-lingual/cultural older persons in the PSA, the AAA shall assure that the staff of subcontractors includes multi-lingual/cultural personnel.
16. The AAA shall obtain documented assurance that information about consumers of services is maintained confidentially by subcontractors.
17. The AAA shall obtain documented assurance that subcontractors coordinate their services with the existing information and assistance services.
18. The AAA shall require subcontractors to provide evidence that services are accessible to older persons.

F. Fiscal Management

1. The AAA shall establish and implement fiscal management procedures to assure effective operation of the AAA programs.
2. The AAA shall establish and implement a system to monitor financial expenditures of subcontracts under the Area Plan.
3. The AAA shall maintain an accounting system which is in keeping with sound accounting procedures.
4. The AAA procurement practices shall be in keeping with federal, state and local practices.
5. Expenditures made under the Area Plan shall be in keeping with pertinent federal, state and local policies.

6. AAA program and financial records shall be maintained in conformance with federal and state regulations for reporting.
7. The AAA shall follow established property management policies and procedures.
8. The AAA shall have an internal audit plan which is in keeping with Generally Accepted Auditing Standards and federal and state regulations.

G. Establishing or Maintaining Information and Assistance Services.

The AAA shall establish or maintain information and assistance services in sufficient numbers to assure that all older persons in the PSA have reasonably convenient access to such services.

H. Outreach

1. The AAA will use outreach efforts that will:
 - a. identify individuals eligible for assistance under this Act, with special emphasis on:
 - i. older individuals residing in rural areas;
 - ii. older individuals with greatest economic need (with particular attention to older individuals who are low-income minority, have limited English proficiency, and/or reside in rural areas);
 - iii. older individuals with greatest social need (with particular attention to older individuals who are low-income minority, have limited English proficiency, and/or reside in rural areas);
 - iv. older individuals with severe disabilities;
 - v. older individuals with limited English-speaking ability; and
 - vi. older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and
 - b. inform the older individuals referred to in §1125.H.1.a. of this manual, and the caretakers of such individuals, of the availability of such assistance.
2. The AAA shall conduct an annual evaluation of the effectiveness of outreach conducted under §1125.H.1. of this manual.
3. If there is a significant population of older Native Americans in the PSA of the AAA (at least 25 per parish), the AAA shall conduct outreach activities to identify elder Native Americans in such area and shall inform such older Native Americans of the availability of assistance under the OAA.

I. Staff Development

1. The AAA shall establish and implement a plan which provides for in-service training for all staff.
2. The AAA shall establish and implement a plan which provides that the staff of the subcontractors under the Area Plan receive training.

J. Civil Rights

The AAA shall develop and implement a system to ensure that benefits under the Area Plan are provided in a non-discriminatory manner as required under Title VI of the Civil Rights Act of 1964.

§1127. Area Agency on Aging Responsibilities

A. Advocacy Responsibilities

1. to monitor, evaluate, and comment upon all policies, programs, hearings, and community actions which affect older persons;
2. to solicit comments from the public on the needs of older persons;
3. to represent the interests of older persons to public officials, and public and private agencies or organizations;
4. to consult with and support the State's Long Term Care Ombudsman Program;
5. to coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older persons;
6. to supply service providers under the Area Plan with copies of interagency agreements relative to services provided;
7. to facilitate the coordination of community-based, long term care services designed to retain individuals in their homes, and designed to emphasize the development of client-centered case management systems as a component of such services;
8. to identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet; and
9. to ensure that case management is provided in a consistent manner throughout the PSA.

B. General Planning and Management Responsibilities

1. to develop and administer an Area Plan for a comprehensive and coordinated service delivery system in the PSA, in compliance with all applicable laws and regulations;
2. to assess the kinds and levels of services needed by older persons in the PSA, and the effectiveness of the use of resources in meeting these needs;
3. to enter into contracts to provide all services funded under the plan, except as provided in the OAA Section. 307.(a)(10);
4. to provide technical assistance, monitor and evaluate the performance of all service providers under the plan;
5. to coordinate the administration of its plan with the federal programs specified in the OAA Section. 203.(b), and with other federal, state, and local resources in order to

- develop the comprehensive and coordinated service system required by the OAA Section. 306.(a)(1);
6. to conduct periodic evaluations of activities carried out under the Area Plan;
 7. to establish an advisory council as required by the OAA Section. 306.(a)(6)(D) to advise continuously the AAA on all matters relating to the development of the plan, the administration of the plan and operations conducted under the plan;
 8. to give preference in the delivery of services under the Area Plan to older persons with the greatest economic and/or social need, as defined in the OAA Section. 306.(a)(1), with particular attention to low-income minority individuals;
 9. to assure that older persons in the planning and service area have access to information and referral services;
 10. to provide adequate and effective opportunities for older persons to express their views to the AAA on policy development and program implementation under the plan;
 11. to identify older persons and inform them of the availability of services under the plan. These outreach efforts should have special emphasis on the rural elderly and the isolated urban elderly, and on those with greatest economic and/or social need;
 12. to seek to involve the private bar in legal assistance activities;
 13. to designate, where feasible, community focal points as provided in the OAA Section. 306.(a)(3);
 14. to plan appropriate programs to meet identified needs of the elderly in the PSA. This includes:
 - a. determining which services will be funded and at what level;
 - b. identifying client target groups which will receive priority, in general and for specific services;
 - c. setting standards for service delivery;
 - d. developing a case management system to be used by service providers; and
 15. to develop and maintain on file for review:
 - a. standards for use in the delivery of services;
 - b. a description of the interrelation among service providers funded by the AAA; and
 - c. methods for selecting persons with the greatest social and economic need to receive services;
 16. to provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide services whose application under an Area Plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart F.

C. Eldercare/Case Management

1. AAAs may provide eldercare, as specified in §1241. of this manual.
2. AAAs may provide one or more component of case management for a private entity, as specified in §1241. of this manual.

§1129. Area Agency on Aging Governing Body and Employees

A. Authority and Responsibilities

1. A governing body shall be responsible for all AAA activities, including the expenditure of funds awarded by Governor's Office of Elderly Affairs (GOEA).
2. The AAA governing body has the authority to:
 - a. appoint the director of the AAA;
 - b. determine personnel salaries, organization, fiscal and program procedures subject to GOEA policies;
 - c. determine overall program plans and priorities for the AAA, including provisions for evaluating performance;
 - d. grant final approval on program proposals and budgets of service providers under the Area Plan;
 - e. assure compliance by all subcontractors with all rules, regulations, and GOEA policies;
 - f. supervise the extent and the quality of the participation of the elderly in the programs of the AAA and its subcontractors; and
 - g. determine the rules and procedures of the governing body subject to GOEA policies.
3. The governing body is responsible for securing financial resources beyond those allocated by GOEA.
4. Members of the governing body and AAA employees shall avoid conflicts between their personal interests and the interests of the AAA.
 - a. Conflicts of interest include but are not limited to situations wherein a member of the governing body or AAA employee:
 - i. is involved in a AAA decision or action regarding another entity in which the member or a member of his/her immediate family has a financial interest, is an employee, is a director or is a consultant;
 - ii. discloses information relating to the business of the AAA which can be used by another entity to the detriment of the AAA,
 - iii. uses AAA for private gain, receives kickbacks and rebates from vendors, or accepts gifts from clients, or

- iv. represents a client in any capacity, i.e. last will and testament, living wills, financial agreements, life insurance, powers of attorney. An exception may occur when the client is related to the member or employee.
 - b. Immediate family is defined as follows: husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.
 - c. Other entities include any organization or individual which does business or seeks to do business with the AAA or competes with the AAA.
5. If a member of the AAA governing body or AAA employee is aware of any personal interest related to an issue that exists or is under consideration by the AAA, the individual shall immediately and prior to the discussion about or action on the issue:
- a. disclose the existence of all personal interests; and
 - b. abstain from voting and/or attempting to influence the decision.
- B. Composition
1. Former AAA board members shall not be employed as paid agency staff of the same AAA for a period of two years immediately following separation from the governing body.
 2. Former AAA staff members shall not serve on the governing body of directors of the same AAA for a period of two years immediately following separation from employment, except where the governing body is composed of elected public officials (e.g., parish council or police jury).

§1131. Area Agency on Aging Advisory Council

A. Functions of the Advisory Council

1. The Advisory Council shall carry out advisory functions which further the AAA's mission of developing and coordinating community-based systems of services for all older persons in the PSA.
2. The Advisory Council shall advise the AAA relative to:
 - a. developing and administering the Area Plan;
 - b. conducting public hearings;
 - c. representing the interests of older persons; and
 - d. reviewing and commenting on all community policies, programs, and actions which affect older persons with the intent of assuring maximum coordination and responsiveness to older persons.

3. The Advisory Council shall follow operational procedures established by the AAA governing body.

B. Composition of the AAA Advisory Council

1. The Advisory Council shall be composed of:

- a. Individuals and representatives of community organizations who will help to enhance the leadership role of the AAA in developing community-based systems of services;
- b. more than 50 percent of individuals who are 60 years or older who are participants or who are eligible to participate in Older Americans Act Title III programs;
- c. representatives of health care provider organizations, including providers of veterans' health care (if appropriate);
- d. representatives of supportive services provider's organizations;
- e. persons with leadership experience in the private and voluntary sectors;
- f. local elected officials; and
- g. the general public.

2. Members of the AAA governing body shall not serve on the Advisory Council.

C. Review by Advisory Council

The AAA shall submit the Area Plan and amendments for review and comment to the Advisory Council before it is transmitted to the GOEA for approval.

§1133. Area Plan

A. Purpose of the Area Plan.

The Area Plan is the application submitted by an AAA to the state agency in order to receive funds. The Area Plan contains provisions required by the Older Americans Act and its implementing regulations and the GOEA. It includes commitments that the AAA will administer activities so funded in accordance with all requirements. The Area Plan also contains a detailed statement of the manner in which the AAA is developing a comprehensive and coordinated system throughout the PSA for all allowable services. An AAA may receive contracts and enter into subcontracts under the Older Americans Act only under an approved Area Plan.

B. Duration and Format of the Area Plan.

The AAA must submit to GOEA an Area Plan for its PSA for a two-, three-, or four-year period with such annual adjustments as may be necessary. The Area Plan shall be based upon a uniform format developed by GOEA for area plans within the state.

C. Content of the Area Plan

1. The Area Plan will specify:
 - a. conditions of older persons in the PSA;
 - b. current system of service delivery based on the most recently available data;
 - c. an assessment of current capacity in the PSA to perform service systems development activities;
 - d. the organization of the AAA;
 - e. composition and functions of the AAA Advisory Council;
 - f. goals and objectives for the conduct of the AAA functions described in this Section, and for the development and delivery of services for the aging. Service delivery objectives shall include, for each service, the projected numbers of persons to be served and standard units of service to be provided;
 - g. financial plan, showing projected expenditures by source (federal, state, and local) and service;
 - h. standard assurances for complying with applicable laws, regulations, and other directives; and
 - i. the AAA's approach to, plans for, and/or current involvement in eldercare, as defined in §1241. of this manual.
2. Whenever the AAA plans to provide eldercare and/or to provide case management for a private entity, the Area Plan, or its amendment, shall include the provisions specified in §1241. of this manual.
3. Each Area Plan shall designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations providing day care services for children or assistance to older individuals caring for relatives who are children, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families as such focal point).
 - a. were officially designated as community action agencies or community action programs under Subsection 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or
 - b. came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs; and

- c. meet the requirements under Subsection 675(c)(3) of the Community Services Block Grant Act [42 U.S.C. 9904.].

D. Development and Amendment of the Area Plan

1. Area Plans shall be developed for a two-, three-, or four-year period with annual updates and amendments as necessary. The plan's resource allocation, including allotments for services, shall be prepared annually and as available allotments change. The format of the Area Plan and instructions for its completion shall be prescribed by the GOEA and issued separately.
2. Prior to the adoption of the content areas described in §1133.C of this manual, the AAA must conduct public hearings in accordance with a schedule established by the Advisory Council. The AAA must give at least 14 days' notice to older persons, public officials, and other interested parties of the times, dates and locations of the public hearings in each parish. The AAA shall prepare public hearing materials to provide information and serve as a basis for comments, recommendations and other input to the development of the Area Plan.
3. Public hearings on plan amendments will only include information relating to the part of the plan being amended.
4. In accordance with the state public meetings law, R.S. 42:12 et seq., the AAA, in holding public hearings, must give at least 14 days' notice to older persons in each parish, including the Advisory Council, public officials, and other interested parties of the times, dates, and locations of the public hearing(s) which will be held. Public hearings must be held at a time and location which permit older persons, public officials, and other interested parties a reasonable opportunity to participate. The AAA must submit the Area Plan and amendments for review and comment to the Advisory Council.

E. Review and Approval of the Area Plan and Amendments

1. The completed Area Plan will be submitted to the GOEA for review and approval by a date specified by the GOEA. The resource allocation plan describing the projected costs by source of funds and service, will be submitted annually as prescribed by the GOEA.
2. The Area Plan must be amended if:
 - a. a new or amended state or federal statute or regulation requires a new provision, or conflicts with any existing plan provisions;
 - b. a U.S. or Louisiana Supreme Court decision changes the interpretation of a statute or regulation;
 - c. the AAA proposes to add, substantially modify, or delete any Area Plan objective(s);
or

- d. GOEA specifies additional circumstances under which Area Plan amendments are required.
 3. Amendments must be documented on the Area Plan exhibits affected by the change and submitted to the state agency with a written rationale. Such proposed changes may not be executed until approved by GOEA.
 4. The state agency shall approve an Area Plan which meets the requirements of this manual and the Area Plan format and guidelines issued.
 5. A plan which is disapproved by the state agency shall be returned to the AAA along with a written reason for disapproval. At its discretion, the state agency may request that specific changes be made before resubmittal.
 6. The AAA may appeal disapproval of its Area Plan or amendment in accordance with GOEA hearings and appeals procedures.
- F. Management Plan
- As part of a management plan the AAA will develop a work plan for attaining the objectives outlined in the area plan. The work plan shall be kept on file for review at the AAA office.

§1135. Program Administration

A. Contract Development

The AAA is responsible for the translation of program designs into service delivery project proposals to be developed and carried out by service providers. In carrying out its service procurement responsibilities, the AAA shall adhere to the GOEA's procurement procedures issued annually.

B. Capacity Building, Training, and Technical Assistance

The AAA is responsible for the provision of consultation, training, and support to staff of service providers and other organizations to strengthen their administrative and service delivery capability.

C. Monitoring and Assessment of Service Providers

1. The AAA shall monitor and assess all funded services provided under the Area Plan. Monitoring and assessment of service providers shall be conducted with documentation maintained on file at the AAA's office. Self-assessments shall be conducted where direct delivery has been authorized by the GOEA. The purpose of these activities is to measure service delivery efficiency and effectiveness and to assure compliance with contractual agreements. Suggested corrective action outlined in the monitoring report shall be used as a tool for program planning and improvement. Personnel qualifications and staff utilization will be reviewed as part of this monitoring process.
2. Monitoring activities carried out by the area agency will be directed toward:

- a. identifying performance problems as a basis for determining provider need for technical assistance and training;
- b. measuring the provider's progress toward providing those services specified in the proposal, and placing an emphasis on older persons with the greatest social and economic need;
- c. assuring compliance with applicable federal, state, and local law, regulations and other requirements; and
- d. assuring cost-effective use of available resources for the elderly.

D. Program Evaluation

The AAA is responsible for evaluating programs for the aging, both those provided under the Area Plan and those offered by other organizations.

E. Contributions for Services under the Area Plan

1. The AAA shall assure that agencies providing supportive and nutrition services under the Area Plan shall afford participants the opportunity to contribute to the costs of the services provided. The participants shall determine for themselves what they are able to contribute toward the cost of the service. No eligible person shall be denied a supportive or nutrition service because of his failure to contribute.
2. The AAA shall ensure that the methods of receiving contributions from individuals by the agencies providing supportive or nutrition services under the area plan shall be handled in such a manner as to insure confidentiality.
3. The AAA shall assure that all contributions will be used to expand the services of the provider, and that nutrition services providers must use all contributions to increase the number of meals served, and/or to facilitate access to such meals. Providers of supportive services must use all contributions to increase supportive services.

F. Confidentiality and Disclosure of Information

The AAA shall ensure that information about or obtained from an older person, in a form which identifies the person, shall not be disclosed without the individual's informed, written consent or that of his authorized representative.

§1137. Services to Special Populations

A. Older Individuals Who Are: Low-Income Minority, Limited English Proficiency, and/or Residing in Rural Areas

1. The AAA shall include in each agreement made with a provider of any service under this title, a requirement that such provider will:
 - a. specify how the provider intends to satisfy the service needs of older individuals who are low-income minority, have limited English proficiency, and/or reside in rural areas in the area served by the provider;

- b. to the maximum extent feasible, provide services to older individuals who are low-income minority, have limited English proficiency, and/or reside in rural areas in accordance with their need for such services; and
 - c. meet specific objectives established by the AAA, for providing services to older individuals who are low-income minority, have limited English proficiency, and/or reside in rural areas within the PSA.
2. The AAA shall set specific objectives for providing services to older individuals with greatest economic or social needs, include specific objectives for providing services to older individuals who are low-income minority, have limited English proficiency, and/or reside in rural areas, and include proposed methods of carrying out the preference in the Area Plan.
 3. The AAA will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of older individuals who are low-income minority, have limited English proficiency, and/or reside in rural areas.

B. Native Americans

The AAA will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under Title III of the Older Americans Act, if applicable.

§1139. State Agency Approval of Area Agency on Aging Contracts

The AAA must submit all proposed subcontracts with profit making organizations under the Area Plan to the state agency for prior approval.

§1141. Priority Services

A. General Rules

1. The AAA must allot the following minimum percentages of their funding under Title III-B of the Older Americans Act for the designated service categories:
 - a. services associated with access to services (transportation, health services (including mental behavioral health services), outreach, information and assistance, and case management services): 30 percent;
 - b. in-home services (chore, homemaker, personal care, home repair/modification, sitter service, telephoning, and visiting), including supportive services for families of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction: 15 percent; and
 - c. legal assistance: 5 percent.

2. The AAA must allot the following minimum percentages of their funding under Title III-E of the Older Americans Act for the designated service categories:
 - a. Services associated with respite services (adult day care, adult day health care, group respite, in home respite, institutional respite, and individual care support): 40 percent and
 - b. Supplemental services (material aid, personal care, sitter service, chore, home delivered meals, and home repair/modifications): 20 percent.

Note: Prior approval from the GOEA is required if more than 20% of Title III-E funds are placed in supplemental services.
3. The AAA shall report annually to the state agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded.
4. The GOEA may waive the requirement in §1141.A.1. of this manual for any category of services described in such Paragraph if the AAA demonstrates to the GOEA that services being furnished for such category in the area are sufficient to meet the need for such services in such area and had conducted a timely public hearing upon request.
5. If a waiver is issued by the GOEA for any category of priority service, the AAA must assure that an adequate proportion of its supportive services funds are allocated to the remaining priority services categories.

B. Waiver Requirements

1. Before an AAA requests a waiver under §1141.A.2. of this manual, the AAA shall conduct a timely public hearing in accordance with the provisions of this Paragraph. The AAA requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.
2. The AAA shall prepare a record of the public hearing conducted pursuant to §1141.B.1. of this manual and shall furnish the record of the public hearing with the request for a waiver made to GOEA under §1141.A.3. of this manual.

§1143. Service Procurement

A. General Rules for Services Funded under Title III of the Older Americans Act

1. AAAs use procurement contracts or subcontracts with service providers to provide all Title III services under their respective approved Area Plans except as provided in §1143.B. of this manual.
2. GOEA shall be alert to organizational conflicts of interest or non-competitive practices among area agencies that may restrict or eliminate competition.
3. AAAs shall follow the service procurement guidance issued by GOEA.
4. GOEA shall evaluate AAA applications to provide direct services in order to determine whether direct delivery of such service(s) by an AAA using its own employees is

necessary to assure an adequate supply of the service(s), or whether such service(s) of comparable quality can be provided more economically by the AAA.

5. In order to ensure objective contractor performance and eliminate unfair competitive advantage, GOEA shall review the documentation required in the service procurement guidance, including, but not limited to, standards, specifications, solicitations for proposals (SFPs) and/or evaluation criteria when deciding whether to authorize direct delivery of service(s) by an AAA.

B. Criteria for Direct Delivery of Services by an AAA

1. AAAs may directly deliver information and assistance, and outreach.
2. For services not directly related to the AAA administrative functions, GOEA, after exploring alternatives, may authorize direct service delivery if the AAA:
 - a. demonstrates that it is necessary to directly deliver service(s) to ensure an adequate supply of the service; or
 - b. demonstrates that it can provide service(s) of comparable quality more economically than other providers.
3. GOEA's decision concerning AAA requests for authorization to provide direct services will be based on one of two tests: The Adequate Supply Test (when no proposals are received by the AAA in response to the SFP); or The More Economic Test Standard (when proposals are received).

C. Test Standards

1. Adequate Supply Test Standard
 - a. The Adequate Supply Test will require AAAs to demonstrate that service(s) are either not offered or are only partially available in the PSA.
 - b. The Adequate Supply Test will be met when the AAA provides documentation that it has not received any proposals to deliver the service(s) in all or a portion of the PSA after the AAA has:
 - i. advertised the availability of funds; and
 - ii. written to bona fide service providers, inviting them to submit proposals.
2. More Economic Test Standard
 - a. The More Economic Test will require an AAA to demonstrate that service(s) of comparable quality will be provided by the AAA at a unit rate at least 10 percent lower than the lowest responsible applicant's proposed unit rate.
 - b. The More Economic Test Standard will be met when the AAA's sealed Narrative Proposal substantiates that it meets the Service Delivery Standards in §1143.E. of this manual in a manner comparable in quality to the lowest responsible applicant's proposal; and provides the service(s) at a unit rate which is at least 10 percent lower than the lowest responsible applicant's proposed unit rate. Unit rate is defined as the

total expenditure of funds budgeted for the service divided by the number of units of service to be delivered.

- c. In applying the More Economic Test, GOEA shall utilize the criteria used by the AAA in the preliminary evaluation of proposals received from other potential providers.

D. Standard Procedures

1. For services where direct delivery authorization is not requested the AAA governing body shall:
 - a. solicit proposals for service delivery and awards of financial assistance under procurement contract;
 - b. evaluate proposals received; and
 - c. award procurement contract(s) or financial assistance under contract to best applicant(s).
2. For each service the AAA desires to provide directly, the AAA governing body shall:
 - a. solicit proposals for service delivery and awards of financial assistance under procurement contract;
 - b. conduct a preliminary evaluation of all proposals received; and
 - c. provide sufficient documentation to GOEA to enable the state agency to make a determination of the necessity of direct service delivery by the AAA.

E. Service Delivery Standards

1. A person qualified by training and experience shall be designated to be responsible for the conduct of activities, including supervision of paraprofessional and volunteer staff.
2. There shall be adequate numbers of supervisory staff, trained and skilled in dealing with assessing the needs of older persons and assisting such persons to obtain needed services.
3. The service shall be provided in a timely manner to meet the individual needs of eligible participants.
4. There shall be an established system for follow-up on referrals.
5. There shall be an up-to-date file of community resources which will contribute to the well-being of older persons.
6. Procedures shall be established for publicizing the service.
7. Linkages shall be planned with other services available under Title III OAA Section. 203.
8. There shall be a sound management system capable of furnishing timely and accurate fiscal and program reports.
9. There shall be a sufficient schedule of service delivery days. (Minimum: 250 service delivery days per contract year.)

10. Outreach shall be available to target older persons with the greatest social or economic need with particular attention to low-income minority individuals; older persons with severe disabilities; and older Native Americans [if there is a significant Native American population (at least 25 per parish) in the PSA], and rural elderly.
11. There shall be service delivery criteria for each service giving priority in the delivery of services to older individuals who are frail, homebound by reason of illness or incapacitating disability or otherwise isolated; and older individuals with the greatest social or economic need (with particular attention to low-income minority individuals).
12. There shall be a system established for the re-evaluation of clients receiving services.

COUNCILS ON AGING (COA)

§1151. Establishment of Parish Councils on Aging

A. Issuance of Charters

Charters for the establishment of parish voluntary Councils on Aging (COA) are issued by the Secretary of State upon the approval of applications by the Governor's Office of Elderly Affairs (GOEA) pursuant to R.S. 46:1602. Immediately upon issuance of the charter by the Secretary of State, each COA is authorized to receive public funds from any governmental or political subdivision. Such funds shall be subject to audit by the GOEA and the legislative auditor, or his duly appointed representative.

B. Governance

1. The functions of each COA shall comply with the objectives of state laws and shall be governed by the policies and regulations established by the GOEA. Copies of such policies and regulations shall be furnished to each COA by the GOEA prior to their effective date.
2. Each COA shall be voluntary as to its membership and as to all plans, programs and activities, and each shall be non-profit making and politically non-partisan and non-factional and shall be non-sectarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:87.2(E), 46:932(8), 46:1601, 46:1602, 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1467 (August 1999), amended LR 42: 1508 (September 2016)

3. When the GOEA determines, as a result of monitoring activities or reports from any source, that a COA, through action or inaction of its governing body, is jeopardizing the welfare of the citizens of that parish, or is in violation of the requirements of this policy manual or other state regulations, the following steps shall be taken:
 - a. The GOEA shall require a meeting with the governing body to discuss the issues in question.
 - b. The GOEA may require additional written information and/or records from the COA.
 - c. The GOEA shall issue written guidelines and/or recommendations for the COA in order to remedy the issues under question.
 - d. The GOEA shall provide technical assistance, as requested by the COA and deemed appropriate by the GOEA, in order to facilitate resolution of those issues.
 - e. In the event a COA refuses to follow the GOEA's guidelines and/or recommendations to resolve said issues, the GOEA may institute procedures to revoke that COA's charter.

C. Duties and Functions

1. Each COA shall:

- a. collect facts and statistics and make special studies of conditions pertaining to the employment, financial status, recreation, social adjustment, mental and physical health or other conditions affecting the welfare of the aging people in the parish;
 - b. keep abreast of the latest developments in these fields of activity throughout the state and nation;
 - c. interpret its findings to the citizens of the parish;
 - d. provide for a mutual exchange of ideas and information on the parish and state level;
 - e. conduct public meetings to make recommendations for needed improvements and additional resources;
 - f. promote the welfare of aging people when requested to do so;
 - g. coordinate and monitor the services of other local agencies serving the aging people of the parish;
 - h. assist and cooperate with the GOEA; and
 - i. make recommendations relevant to the planning and delivery of services to the elderly of the parish.
2. Each COA may appoint subcommittees to undertake such special studies as it authorizes and may appoint to such subcommittees persons qualified in any field of activity relating to the welfare of aging people.

§1153. Membership

A. General Membership

1. Membership in the COA shall be open, without restriction, to residents of the parish who have reached the age of majority (18). Membership applications shall be made available at the COA office. Membership fees shall not be charged.
2. If the COA staff meets the requirements in §1153.A.1. of this manual, they may become a member of the COA. However, they have no voting rights.
3. Each COA shall conduct an annual membership drive. The membership rolls shall be closed two weeks prior to the annual meeting required in §1161.C. of this manual.
4. A current list of the general membership shall be maintained at the COA office.

B. Board of Directors

1. The board of directors (the board) shall be composed of no less than 11 members and no more than 21 with provisions in the by-laws for staggered terms of office. By-laws shall specify the exact number of board members. If at any time the board membership is less than 11 members, the board shall not be considered a legally constituted board.

The remaining members shall fill the vacancy in accordance with §1153.B.4. of this manual.

2. Members of the board shall be elected by the general membership of the COA. Ballots shall be prepared from the list of nominees submitted by the Board Development Committee. The presiding officer shall allow ample time for nominations and shall recognize all nominations, including those from the floor, before declaring the nominations closed. All nominations from the floor shall be added to the ballot. Voting shall be conducted by secret ballot. Ballots shall be counted in full view of the general membership. If no nominations are received from the floor, board members may be elected by acclamation.
3. Members of the board shall be elected for terms of three years with approximately one-third elected each year. The word "year" is defined as the period from the date of the annual meeting of one year to the date of the annual meeting of the following year, inclusive. Each board member shall serve until a replacement is appointed or his/her successor is elected.
4. Whenever a position on the board becomes vacant during the year, the board shall elect a temporary replacement within 60 days. The replacement shall serve until the next annual meeting, at which time a successor shall be elected by the membership to fill the vacancy for the remainder of the unexpired term. A person elected to fill an unexpired term for at least 18 months shall be considered to have occupied the position for a full term.
5. General Requirements
 - a. There shall be parish wide representation on the board.
 - b. Members of the board must have the knowledge and expertise in the areas of business and financial management needed to manage the affairs of the COA.
 - c. Members of the board shall reside in the parish throughout their tenure.
 - d. Members of the board must be a member of the COA.
 - e. Not more than one-half of the board membership may be elected officials.
6. Restrictions
 - a. Any member of the board who shall have served as such for two consecutive full terms shall be ineligible for re-election for a period of one year immediately following the expiration of such second full term.
 - b. Former COA staff members shall not serve on the board of the same agency for a period of two years immediately following separation from employment.

- c. Former COA board members shall not serve as paid agency staff of the same agency for a period of two years immediately following separation from the board.
- d. Except for the staff director, who may be an ex-officio member with a voice in discussions but with no vote, paid staff members are prohibited from serving on the board.
- e. Immediate family members or members residing in the same household shall not serve on the board at the same time. Immediate family is defined as follows: husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, and daughter-in-law.
- f. If a council on aging's charter is revoked, by the Governor's Office of Elderly Affairs and the formation of a new council on aging for the parish is approved, former board members who served during the 12-month period prior to the time of revocation shall be prohibited from serving as board members on the council on aging board for a period of three years.

§1155. Council on Aging Board of Directors

A. Responsibilities of the Board of Directors

- 1. The board shall assure the availability of funds required for the COA to function. Additionally, the board shall be responsible for accountability of expenditures of funds.
- 2. The board shall establish policies governing all aspects of the COA's operations. These policies shall be in compliance with state and federal laws and regulations. Additionally, they shall comply with the policies established by the GOEA and shall be maintained as a matter of record. The board shall be responsible for enforcement of these policies.
- 3. The board shall employ a paid full-time executive director, who shall be qualified by education and/or experience to perform duties which include, but are not limited to the following:
 - a. planning and program development;
 - b. evaluation of programs and operation;
 - c. resource development and fund raising;
 - d. fiscal management and budgeting;
 - e. supervision of day-to-day operation;
 - f. community relations;
 - g. personnel management; and

- h. training and staff development.
- 4. The board shall delegate the responsibilities listed in §1157. and §1159. of this manual to the executive director. The executive director shall perform his/her duties in accordance with policies established by the board. The executive director shall review and report to the board and others, as appropriate, on programs, operations, facilities, equipment, and emergency arrangements.
- 5. The board shall establish written procedures for hearing employee grievances. These procedures shall provide for an appeal of disciplinary actions by the executive director.
- 6. The board shall ensure that any employee who runs for public office takes a leave of absence for the period of time she/he is actively involved in the campaign. An employee shall be considered actively involved in the campaign from the time she/he qualifies as a candidate to the time the votes are tabulated. If elected, the employee shall either resign or be terminated from employment.
- 7. The board shall ensure that immediate family members are not employed by the COA in direct supervisory relationships. Immediate family is defined as follows: husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law and daughter-in-law.

B. Offices of the Board of Directors

- 1. Officers of the board of directors shall be elected by the board members in accordance with the Open Meetings Law.
 - a. The minimum offices of the board shall be president/chairperson; vice-president/vice-chairperson; and secretary/treasurer; or secretary and treasurer. The duties of each office are defined below.
 - i. *President/Chairperson*—the president/chair-person shall preside at all meetings of the board and shall perform such other duties as may be assigned by the board.
 - ii. *Vice-President/Vice-Chairperson*—at the request of the president/chairperson, the vice president/vice-chairperson shall perform the duties and exercise the powers of the president/chairperson or in his/her absence or disability. The vice-president/vice-chairperson shall perform such duties as may be assigned by the board.
 - iii. *Secretary*—shall have general charge over all the board's records. The secretary shall keep complete minutes of all meetings of the board and executive committee. The secretary shall serve all notices required by the corporate laws of the state of Louisiana and the by-laws of the COA. The secretary shall prepare and submit the Annual Report required in §1161.D. of this manual. The secretary shall be responsible for maintaining the official membership roll of the COA. The secretary

shall have the usual powers and duties of a secretary and shall perform such other duties as may be assigned by the board.

- iv. *Treasurer*—shall have the usual powers and duties of a treasurer. The treasurer shall be responsible for all funds, property and securities of the board subject to state and federal law and/or regulations. The treasurer shall present a quarterly financial statement to the board to include a comparison of income and expenditures with respect to the annual budget. The treasurer must properly account for and report to the board annually regarding all assets of the COA. The treasurer shall prepare and submit such reports as are required by law. The treasurer shall perform such other duties as may be assigned by the board.
- b. The by-laws may provide for additional officers, and must spell out the duties and responsibilities of all additional officers.
2. Each officer shall be elected by the members of the board at the first regular meeting of the board. The first regular meeting of the board shall be held immediately following adjournment of the annual meeting.
3. The term of office for each officer shall be one year. Officers may serve no more than two consecutive terms in the same office. Terms shall begin when officers are elected.
4. The board shall elect from among its members, an officer to fill any office vacated between elections within 30 days, or at its next scheduled meeting, whichever comes first. The officer so elected shall serve for the remainder of the unexpired term. An unexpired term so filled shall not be considered a term of office as defined in Paragraph 3 of this Subsection.

C. Committees

1. Standing Committees

- a. The board shall establish the following standing committees: Executive Committee, Board Development Committee, Personnel Committee and Finance Committee. Elections and appointments shall be done annually. The members of the standing committees shall be named at the first meeting of the board following the annual meeting.
- b. To the extent feasible, all members of the board shall be appointed to at least one standing committee.
- c. The duties and responsibilities of standing committees established by the board shall include but not be limited to the following:
 - i. The Executive Committee shall be composed of the officers and such other persons as the board designates. The executive committee may have the authority to make decisions as delegated by the board. Recommendations developed by the executive

committee shall be brought before the full board for its actions at the next meeting of the board.

- ii. The Board Development Committee shall be elected by the board and shall elect its own chairperson. This committee shall nominate temporary replacements to be elected by the board to fill vacancies on the board; present a slate of nominees for the board to be voted upon by the general membership at the annual meeting; and develop a slate of nominees for officers to be presented to the board at the first meeting following the annual meeting. Biographical information will be obtained by this committee on each individual being considered for nomination.
- iii. The Personnel Committee shall be appointed by the board president/chairperson. This committee shall interview and recommend candidates for the executive director's position; and recommend salaries and adjustments for the executive director. It shall develop personnel policies which ensure compliance with all pertinent federal and state laws and regulations pertaining to labor standards including employee rights, compensation, insurance, retirement, Social Security and other benefits. It shall hear appeals of disciplinary actions by the executive director. Its recommendations shall be presented to the full board for approval.
- iv. The Finance Committee shall consist of the treasurer and members appointed by the board president/chairperson. The treasurer shall serve as chairperson. This committee shall develop fund raising activities; prepare and submit the budget for the following fiscal year for approval by the board; and submit financial reports and amendments to the budget for the current fiscal year.

2. Ad Hoc Committees

The board may designate such other committees as it deems necessary. Members shall be appointed by the board president/chairperson. Ad hoc committees shall meet at the call of their chairperson and shall submit a written report to the board at the end of their assignment.

D. Meetings of the Board of Directors

1. Regular Meetings

Regular meetings of the board shall be held at least quarterly according to a schedule determined by the board.

2. Special Meetings

Special meetings may be called by the chairperson; the executive committee; one-third of the board members; or 25 credentialed members of the COA. The purpose of the meeting shall be stated in the request. Except in the cases of emergency, a 24-hour notice shall be given.

3. Parliamentary Authority

All board meetings shall be conducted in accordance with the current edition of *Robert's Rules of Order*, provided the rules are not inconsistent with these policies or statutory regulation.

4. Open Meetings Law

Meetings of the board shall be conducted in accordance with R.S. 42:12 et seq., the Open Meetings Law.

5. Notice

Notice of board meetings shall be given by regular mail to each member at least five days before the date designated for such meetings. The notice shall specify the place, date, time and business to be brought before the board.

6. Quorum

- a. The presence of a simple majority of the number of board members stated in the by-laws shall be necessary to constitute a quorum at any meeting of the full board to transact business. An act of a simple majority of the directors attending a meeting when a quorum is present shall be an act of the board.
- b. The quorum for conducting business by all committees shall be a simple majority of the membership of each committee. The passage of any motion or resolution shall be by simple majority voice vote of those present.

7. Voting Procedures

Voting by the board shall be conducted by voice vote of "yea" or "nay." No member will vote by proxy. Each member is to have one vote. All votes made by members of the board shall be recorded by member's name in the minutes of the meeting and as required by the Louisiana Open Meetings Law (R.S. 42:12 et seq.).

E. Conflict of Interest

1. All board members and COA employees shall avoid conflicts between their personal interests and the interests of the COA.
 - a. Conflicts of interest include but are not limited to situations wherein a board member or COA employee:
 - i. is involved in a COA decision or action regarding another entity in which the member or a member of his/her immediate family has a financial interest, is an employee, is a director or is a consultant;
 - ii. discloses information relating to the business of the COA which can be used by another entity to the detriment of the COA;
 - iii. uses COA for private gain, receives kickbacks and rebates from vendors, or accepts gifts from clients, or

- iv. represents a client in any capacity, i.e. last will and testament, living wills, financial agreements, life insurance, powers of attorney. An exception may occur when the client is related to the member or employee.
 - b. Other entities include any organization or individual which does business or seeks to do business with the COA or competes with the COA.
 - c. Immediate family is defined as follows: husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.
 2. If a board member or COA employee is aware of any personal interest related to an issue that exists or is under consideration by the COA, the individual shall immediately and prior to the discussion about or action on the issue:
 - a. disclose the existence of all personal interests; and
 - b. abstain from voting and/or attempting to influence the decision.
 3. The president/chairperson, after reviewing the matter with the executive committee, shall have the authority to determine whether a conflict of interest exists.
- F. Removal of Board Member or Officer
 1. Reasons for Removal. Any board member or officer may be removed from the board, after a hearing, for the following reasons:
 - a. failure to perform duties;
 - b. conduct which is injurious to the COA or its purposes;
 - c. absence from two consecutive regular meetings of the board without a valid reason. The secretary shall mail a letter of notification after a member has missed two regular meetings.
 2. Notice of Removal

Any officer or member proposed to be removed shall be entitled to at least a five-day notice in writing, of the meeting at which such removal is to be voted upon. Such notice shall be sent by registered mail, and shall include the reason(s) for the proposed removal. The officer or member proposed to be removed shall be entitled to appear and be heard at such meeting, and may present such witnesses and make such defense as he/she deems proper.
 3. Process of Removal

Any officer or member may be removed from office by the affirmative vote of two-thirds of the board members present at any regular meeting or special meeting called for that purpose. The board may declare a seat vacant or void the election of a board member.

§1157. Administrative and Personnel Responsibilities

A. Administrative Responsibilities

1. Administrative records and reports shall be established and maintained on the COA's total operation to satisfy legal requirements and for use as a management tool. These should include:
 - a. written records of all policies set forth by the governing body;
 - b. minutes of meetings of the board;
 - c. minutes of committee meetings, including records of major decisions;
 - d. personnel records;
 - e. fiscal records;
 - f. correspondence;
 - g. safety, fire inspection, public health inspection, and related reports;
 - h. accident reports and procedures;
 - i. statistical information;
 - j. annual reports, reflecting fiscal and program activity of the COA; and
 - k. historical records, clippings, and other documents.
2. Administrative records and reports should be reviewed periodically by appropriate staff to evaluate their adequacy and continued usefulness.
3. An appropriate policy, consistent with administrative and legal requirements, should be established for retaining records and reports.

B. Personnel Responsibilities

1. Personnel Management

a. Staffing

A COA shall have a staffing pattern that clearly defines the positions necessary to implement the organization's goals and objectives and specifies appropriate relationships among all levels of administration and supervision.

b. Staff Supervision

- i. A COA should have a formal system of staff supervision for paid and volunteer personnel to help improve their performance and develop their abilities. Supervision should include regular individual conferences and staff meetings.
- ii. A COA should have a development program for paid and volunteer staff to encourage participation in educational and training opportunities that will enhance their skills and job performance.

- c. Staff Training
 - i. COAs shall provide training for staff and volunteers who are assigned to record keeping. Such training should include:
 - a) information about the COA's system of record keeping (for example, types of records and reports and how they are used);
 - b) training for computer-based information systems, if used by the COA; and
 - c) instruction about procedures to ensure confidentiality of participants and staff.
- 2. Personnel Policies, Practices and Procedures
 - a. Personnel policies shall be written in a handbook or other suitable form and provided to staff, board members, and, as appropriate, other agencies. Procedures and criteria in the following areas should be included as applicable:
 - i. recruitment, hiring, probation, dismissal;
 - ii. insurance;
 - iii. leave, vacation, holidays, other benefits;
 - iv. retirement;
 - v. grievances and disciplinary actions;
 - vi. performance appraisal and promotion;
 - vii. salary ranges and increases;
 - viii. staff development and training;
 - ix. channels for staff communication with management;
 - x. family leave, if agency meets Family Medical Leave Act (FMLA) requirements;
 - xi. protection from discrimination based on age, race, sex, sexual preference, disability, and religious preference;
 - xii. protection from sexual harassment; and
 - xiii. Equal Employment Opportunity.
 - b. Hiring practices shall be consistent with requirements of government laws and regulations.
 - c. Job Descriptions
 - i. There shall be a written job description for each staff and volunteer position.
 - ii. Each job description shall state at a minimum:
 - a) position title;
 - b) qualifications;
 - c) duties and responsibilities;

- d) scope of authority; and
- e) lines of communication for supervision and reporting.
- iii. Each staff member and volunteer shall be given a copy of his or her job description, and it must be discussed at the time of employment or job assignment.
- iv. Management shall annually review each job description with staff and revise it as appropriate.
- d. An employee record shall be maintained, and should contain at least the following:
 - i. application for employment, including a résumé;
 - ii. letters of reference;
 - iii. job description;
 - iv. letters of employment;
 - v. record of compensation, promotion, and salary adjustments;
 - vi. evaluation and commendations;
 - vii. disciplinary actions; and
 - viii. correspondence on personnel matters.
- e. Each employee's performance shall be evaluated regularly, according to an established procedure. Performance appraisals should include:
 - i. a written performance appraisal based on objective and job-related criteria;
 - ii. review of the appraisal in a face-to-face interview; and
 - iii. opportunity for written dissent to be part of the personnel record.

§1159. Fiscal Responsibility

A. Fiscal Planning

1. A COA's financial operation shall be based on sound planning and prudent management of all resources.
2. The budget shall specify and allocate all anticipated income, from all sources, and all projected expenditures related to services regardless of the funding source.
3. Procedures shall be established and records kept so that a cost analysis of services and activities can be made and the results used in the planning process and for evaluations.

B. Accountability and Reporting

1. Regular fiscal reports disclosing the COA's full financial condition shall be prepared. These reports shall include balance sheets, statements of income and expense, and

cumulative and comparative budgets. Fiscal reports shall be submitted to the GOEA and made available to the public on request.

2. The accounting records of the COA shall be audited annually within 180 days after the close of each fiscal year by a Certified Auditor or Certified Public Accountant whose report shall be rendered to the board and sent to the GOEA as required.
3. The audit report shall be submitted to the board and the executive director and made available to the public on request.
4. Reports related to income provided for special purposes (grants, contracts, special projects, etc.) shall be prepared and submitted to the GOEA as required.
5. Annually, each COA shall file with the GOEA a financial statement for the previous year of all receipts and disbursements of funds allocated pursuant to R.S. 46:1606. Such statement shall be filed no later than 30 days after the close of each fiscal year.

C. Legal and Administrative Requirements

1. A COA's financial operation shall conform to all applicable legal and administrative requirements.
2. Budgeting, accounting, and financial reporting practices shall conform to generally accepted accounting principles.
3. Budgeting, accounting, and financial reporting practices shall conform to requirements of a COA's funding sources.

D. Management Procedures

1. Accurate and complete bookkeeping records shall be maintained.
2. A COA or its board shall have an internal control system consisting of written procedures for:
 - a. centralized cash control, including recording cash receipts and expenditures, depositing cash, separation of cash handling from record-keeping, and periodic checks of petty cash and other cash funds;
 - b. purchasing, including an approval system for all purchases, names of persons authorized to contract or purchase for the council on aging, obtaining competitive price quotes or bids, and separation of ordering and receiving functions;
 - c. storage and inventory control; and
 - d. bonding of persons who handle the COA's funds.

E. Risk Protection

1. A COA shall have a risk protection program (insurance coverage) that:

- a. meets legal requirements;
 - b. is adequate to preserve the COA's assets; and
 - c. compensates claimants for reasonable claims.
2. Administrative staff or board members shall procure information on insurance needs and available types of protection. Such information should be reviewed by the board or the executive director at least annually.
3. A COA shall have insurance policies covering:
- a. loss from fire, theft, vandalism, and natural disasters;
 - b. comprehensive general liability;
 - c. vehicle insurance;
 - d. liability for use of private automobiles by paid or volunteer staff on official business;
 - e. workers' compensation; and
 - f. liability for acts of volunteers.

F. Compensation

The members of the board shall receive no per diem or other compensation for their services.

G. Travel Reimbursement

Members of the board may receive reimbursement for in-parish travel for the purpose of attending meetings of the board or any committee. At the option of the board, board members may receive reimbursement for out-of-parish travel conducted in connection with business of the board. Such travel shall receive prior approval of the board at a regularly scheduled meeting. State travel regulations shall govern the rate of reimbursement.

H. Bonding

A fidelity bond shall be maintained by the COA to cover all board officers, all board members authorized to sign checks, and all COA employees who handle cash or other funds administered by the board.

I. Bank Accounts

The board shall designate all authorized check signers through passage of a resolution. All checks issued by the COA shall have two signatures. At least one of the signatures shall be that of a duly authorized board member. The bookkeeper or person preparing the checks shall not be authorized to sign checks.

J. Ownership and Transfer of Property

1. Acquisition

Assets derived from funds administered by the COA are assets of the COA.

2. Disposition

In the event of the dissolution of the COA, no assets shall be used to benefit any private person, corporation, or group. GOEA shall ensure that such assets are transferred to a unit of government or to another private non-profit agency holding a 501(c)(3) Certificate.

§1161. General Requirements

A. Council on Aging By-Laws

1. By-laws shall be reviewed and updated as necessary, at least every two years. A copy of each COA's by-laws or a "Board of Directors By-laws Certification Form" shall be sent to the GOEA by July 31 of each year. Revisions must be accompanied by a copy of the by-laws, the "Board of Directors By-laws Certification Form", and "Evaluation of Board of Directors By-laws" and forwarded to GOEA within 30 days of the revision.
2. By-laws shall contain procedures for amendment. Due notice of not less than 14 days shall be given to all board members and the public. Proposed changes in the by-laws shall not be voted on at the meeting at which they are presented for consideration, but shall be laid over to the next regularly scheduled board meeting unless a special meeting is called for that purpose.

B. Membership List

The secretary shall maintain a list of the board members. The list shall be available at all regular and special meetings of the membership. Only those members who have been identified as current members will be permitted to vote at meetings of the general membership.

C. Annual Meeting

1. The COA shall hold an annual membership drive. The membership roster must be closed 14 days prior to the annual meeting.
2. There shall be an annual meeting of the general membership of the COA for the purpose of nominating and electing board members, receiving reports, and conducting any other business that may arise.
3. The Annual Meeting shall be advertised in the official parish journal 21 days in advance. Notices shall be posted at all COA activity sites for at least seven days immediately prior to the meeting.
4. The COA shall provide the following to the GOEA at least 10 working days prior to the annual meeting: annual meeting agenda, annual Director's report, current Board

Roster, and a copy of the advertisement or flyer showing the date, time, and address of the meeting.

5. Those members of the COA present at the annual meeting and who have been credentialed by the secretary shall constitute a quorum.

D. Annual Report

An annual report shall be prepared at least two weeks prior to the annual meeting. It shall include a list of board members; a comprehensive financial statement that identifies all revenues, expenses, sources of funding and ending balances; a summary of activities conducted pursuant to §1151.C. of this manual, including findings and recommendations of subcommittees appointed by the COA during the most recently completed state fiscal year. Copies of the annual report shall be provided to the GOEA. Copies shall be made available to the general public and may be provided at cost.

E. Ethics

1. Purchases

- a. Funds administered by the COA shall be neither obligated nor expended for the purchase or rental of goods, space, or services if any of the following persons has a substantial interest in the purchase or rental unless it is documented that it is the cheapest or sole source, and the person who has an interest plays no part in making the decision:
 - i. a board member;
 - ii. the executive director or assistant director;
 - iii. any employee who has responsibility for procurement of goods, space or services;
 - iv. anyone who is a member of the immediate family of a board member or employee referred to above; or
 - v. any individual referred to above, who has a direct or indirect financial or executive interest in any contract or transaction with the COA shall disclose such interest to the board.
- b. The individual concerned shall not participate in discussion or vote relating to the subject of their interest.

F. Coercion

Neither the board nor the executive director shall impose upon any employee or prospective employee of the COA any conditions of employment, either expressed or implied, which are not job related in terms of qualifications, duties and responsibilities.

§1163. Dissolution of Councils on Aging

- A. The GOEA, with approval of the governor, and upon review and recommendation of the Louisiana Executive Board on Aging, may revoke the charter of any COA for noncompliance with law, policies and/or regulations.
- B. Any COA may be dissolved and surrender its charter upon a decision to do so reached by a majority vote of the total membership of the board. Upon revocation or surrender of the charter, a COA shall cease to function under the provisions of R.S. 46:1601 et seq.
- C. Within 60 days of the revocation or surrender of a charter, the GOEA shall accept applications from any group of five or more citizens of the parish for a new charter. The application shall set forth the names, addresses, and occupations of the persons who are to serve as the charter members and such other information as required by R.S. 46:1601 et seq. Charter members in the COA shall consist of those persons who associate themselves together, and receive an original charter. Not more than half of the charter membership of a COA shall be elected officials.
- D. Immediately upon receipt of an application, the GOEA shall make such examination and investigation as it deems advisable. After the application has been approved by the executive director of the GOEA, it shall be transmitted to the Secretary of State, who is authorized to issue a charter which thereafter shall constitute authority of the COA to function in the parish for which the charter was issued in accordance with the provisions of R.S. 46:1601 et seq.
- E. Immediately upon issuance of the charter by the Secretary of State, the newly established COA will be authorized to receive public funds from any governmental or political subdivision. Such funds shall be subject to audit by the GOEA and the legislative auditor, or his duly appointed representative.

SERVICE PROVIDER RESPONSIBILITIES

§1171. Scope of Requirements

- A. This Subchapter outlines the requirements that full service providers must meet to receive federal and/or state funds through the Governor's Office of Elderly Affairs (GOEA). These requirements will serve as the basis for proposal/program evaluation by the state and Area Agencies on Aging (AAA) and for the monitoring and assessment of full service supportive and/or nutrition services providers and state-funded senior center operators, including Parish Councils on Aging (COA).
- B. A "full service provider" is one that administers a service in its entirety. A full service provider may either:
 1. perform all functions necessary to deliver a service using its own staff; or
 2. subcontract with one or more separate entities to perform a single function or a combination of related functions that are essential to service delivery (e.g., assessment and screening of participants, client tracking, vehicle maintenance, food preparation, meals delivery, etc.). The entity with whom the full service provider subcontracts is considered a "component service provider".
- C. The term "full service provider" also applies to AAAs authorized to deliver services directly as set forth in §1143.B. of this manual.

§1173. Advisory Role of Older Persons to Full Service Providers

- A. Full service providers shall have written policies aimed at achieving participation by older adults who will:
 1. inform and advise the governing body and program administrator about participant and community needs;
 2. advise the governing body by making recommendations about agency operations and program;
 3. represent the participants to inform and advise the governing body and staff on specific issues and problems; and/or
 4. provide feedback about participant satisfaction with current services and activities.
- B. Full service providers may have advisory committees for a variety of special or ongoing purposes, such as fund raising, designing of facilities or program planning. The relationship of such committees to the staff and governing body should be clearly explained.

§1175. Administrative and Personnel Responsibilities

- A. Administrative Responsibilities

1. The governing body of a full service provider shall designate a chief administrator/director and delegate to him or her responsibility for the overall management of the service or program. A full service provider's administrative roles and responsibilities shall be clearly defined.
 - a. The chief administrator/director is responsible for:
 - i. development of a work plan;
 - ii. planning and program development;
 - iii. evaluation of program and operation;
 - iv. resource development and fund raising;
 - v. fiscal management and budgeting;
 - vi. supervision of day-to-day operation;
 - vii. community relations;
 - viii. involvement of older adults in planning and operation;
 - ix. personnel management;
 - x. training and staff development; and
 - xi. reviewing and reporting to governing body and others, as appropriate, on program, operation, facility, and equipment emergency arrangements.
 - b. These responsibilities may be delegated and shared as appropriate.
 - c. When a full service provider is part of a larger agency, the chief administrator/director shall have a defined relationship with:
 - i. the larger agency's governing body;
 - ii. the larger agency's administrative staff;
 - iii. any relevant advisory committee of the larger agency or governing body; and
 - iv. any other entity within the larger agency or governing body with responsibility for the full service provider.
2. In a multi-site operation, there shall be a manager on site (site manager) with clearly defined responsibilities for the program, day-to-day operation and other duties as delegated. The relationship of the site manager to the chief administrator/director and the governing body shall be clearly defined.

B. Personnel Responsibilities

1. Staffing

- a. There shall be a sufficient number of personnel to implement the activities and services planned to meet the full service provider's goals and objectives, and to ensure adequate staffing for the number of persons served and the frequency of service provided.

- b. A full service provider shall have a staffing pattern that clearly defines the positions necessary to implement the full service provider's goals and objectives and specifies appropriate relationships among all levels of administration and supervision.
 - c. A full service provider shall make use of human resources in the community to supplement its personnel by making written agreements with other agencies for mutual referrals, shared staff, and collocation of services.
 - d. Ethnic and racial makeup of full service providers' staff should reflect the ethnic and racial makeup of the community's older adults in order to encourage their participation.
 - e. Staff shall be competent to meet job description requirements and provide quality services.
 - f. Full service provider staffs shall create an atmosphere that acknowledges the value of human life, affirms the dignity and self-worth of the older adult, and maintains a climate of respect, trust, and support. Within this atmosphere, staff creates opportunities for older adults to apply their wisdom, experience, and insight, and to exercise their skills.
 - g. Full service providers staff shall encourage participants' personal growth by:
 - i. developing warm, friendly relationships;
 - ii. respecting individual needs, interests, rights, and values;
 - iii. encouraging responsible assumption of obligations;
 - iv. assisting with personal problems and coping skills; and
 - v. supporting participant involvement in decision making.
2. Staff Supervision and Training
- a. A full service provider shall have a formal system of staff supervision for paid and volunteer personnel to help improve their performance, develop their abilities, and ensure staff-participant relationships. Supervision shall include regular individual conferences and staff meetings.
 - b. A full service provider shall have a development program for paid and volunteer staff to encourage participation in educational and training opportunities that will enhance their skills and job performance.
3. Personnel Policies, Practices and Procedures
- a. Policies governing personnel administration, rights, and responsibilities shall be established by the governing body and maintained as a matter of record.
 - b. Personnel policies shall be written in a handbook or other suitable form and provided to staff, governing body, and, as appropriate, other agencies. Procedures and criteria in at least the following areas should be included:

- i. recruitment, hiring, probation, dismissal;
 - ii. insurance;
 - iii. leave, vacation, holidays, other benefits;
 - iv. retirement;
 - v. grievances and disciplinary actions;
 - vi. performance appraisal and promotion;
 - vii. salary ranges and increases;
 - viii. staff development and training;
 - ix. channels for staff communication with management;
 - x. family leave, if agency meets Family Medical Leave Act (FMLA) requirements;
 - xi. protection from discrimination based on age, race, sex, sexual preference, disability, and religious preference; and
 - xii. protection from sexual harassment.
- c. Hiring practices shall be consistent with requirements of funders and of government laws and regulations.
- d. Each employee's performance shall be evaluated regularly, according to an established procedure. Performance appraisals should include:
- i. a written performance appraisal based on objective and job-related criteria;
 - ii. review of the appraisal in a face-to-face interview; and
 - iii. opportunity for written dissent to be part of the personnel record.
4. Volunteers
- a. A full service provider should attempt to recruit and involve volunteers of all ages from service, civic, and religious organizations and from the general community.
 - b. The relationship between paid and volunteer workers shall be clearly defined and understood by all staff.
 - c. Written policies governing volunteers should include:
 - i. a system of recruitment;
 - ii. clear definition of volunteer responsibilities;
 - iii. orientation, training, opportunities for sharing skills, learning new skills, and for accepting new responsibility;
 - iv. a channel for volunteer input into program implementation, development, and planning;
 - v. opportunity for public recognition of volunteer contributions;
 - vi. ongoing formal and informal performance appraisal; and

- vii. a formal method of termination and grievance procedures.
5. Job Descriptions
- a. There shall be a written job description for each staff and volunteer position.
 - b. Each job description shall state at a minimum:
 - i. position title;
 - ii. qualifications;
 - iii. duties and responsibilities;
 - iv. scope of authority; and
 - v. lines of communication for supervision and reporting.
 - c. Each staff member and volunteer shall be given a copy of his or her job description, and it must be discussed at the time of employment or job assignment.
 - d. Management shall annually review each job description with staff and revise it as appropriate.
6. Emergency Arrangements
- a. Emergency arrangements shall be made by the administrator, in consultation with the fire department and other relevant agencies, for dealing with personal emergencies at the service delivery site and on trips, such as:
 - i. serious illness or injury that occurs at the service delivery site;
 - ii. fire;
 - iii. power failure; and
 - iv. natural disaster.
 - b. A written record of any emergency shall be filed with the administrator/director, whether or not there is apparent injury or property damage.
 - c. Written emergency plans shall be posted in conspicuous places throughout the service delivery site. Plans shall include:
 - i. telephone numbers for fire department, police, ambulance, hospital emergency room, local civil defense or disaster office;
 - ii. steps to be taken in case of an emergency;
 - iii. location of first-aid and other supplies; and
 - iv. evacuation instructions.
 - d. Periodic drills shall be scheduled and carried out:
 - i. fire drills shall be held at least four times a year; and
 - ii. first-aid training and drills, including such techniques as cardiopulmonary resuscitation (CPR) and the Heimlich maneuver, shall be held regularly.

§1177. Fiscal Responsibility

(See also Office of Elderly Affairs' *Accounting Guide for Sub-recipients* available at www.goea.la.gov)

A. Fiscal Planning

1. A full service provider's financial operation shall be based on sound planning and prudent management of all resources.
2. Budget preparation shall be a part of the annual planning process and shall anticipate the resources needed to fulfill the full service provider's goals, and objectives.
3. The budget shall be prepared by administrative staff or governing body, as appropriate, with input from program staff and participants, and be approved by governing body.
4. The budget shall be based on a thorough consideration of the resources required to carry out each of the full service provider's activities and services.
5. The budget shall specify and allocate all anticipated income, from all sources, and all projected expenditures related to services regardless of the funding source.
6. The budget shall be used as a fiscal control tool to monitor income and use of resources.
7. Procedures shall be established and records kept so that a cost analysis of services and activities can be made and the results used in the planning process and in evaluation.

B. Accountability and Reporting

1. Regular fiscal reports disclosing the full service provider's full financial condition shall be prepared. These reports shall include balance sheets, statements of income and expense, and cumulative and comparative budgets.
2. Fiscal reports shall be submitted to the governing body or its designated authority and made available to participants, funders, and the public on request.
3. The audit required by GOEA shall be performed annually by an independent accountant.
4. The audit report shall be submitted to the governing body and the administrator and made available to funders, participants, and the public on request.
5. Reports related to income provided for special purposes (grants, contracts, special projects, etc.) shall be prepared and submitted to funding sources as required.
6. In-kind contributions shall be recorded and documented in conformance with income source regulations.

C. Legal and Administrative Requirements

1. A full service provider's financial operation shall conform to all applicable legal and administrative requirements.
2. Budgeting, accounting, and financial reporting practices shall conform to generally accepted accounting principles.
3. Budgeting, accounting, and financial reporting practices shall conform to requirements of a full service provider's funding agencies.

D. Management Procedures

1. Accurate and complete bookkeeping records shall be maintained.
2. A full service provider or its governing body shall have an internal control system consisting of written procedures for:
 - a. centralized cash control, including recording cash receipts and expenditures, depositing cash, separation of cash handling from record-keeping, and periodic checks of petty cash and other cash funds;
 - b. purchasing, including an approval system for all purchases, names of persons authorized to contract or purchase for the full service provider, obtaining competitive price quotes or bids, and separation of ordering and receiving functions;
 - c. storage and inventory control;
 - d. bonding of persons who handle the full service provider's funds.

E. Risk Protection

1. A full service provider shall have a risk protection program (insurance coverage) that:
 - a. meets legal requirements;
 - b. is adequate to preserve the full service provider's assets;
 - c. compensate claimants for reasonable claims.
2. Administrative staff or governing body shall procure information on insurance needs and available types of protection. Such information should be reviewed by the governing body or its designated authority at least annually.
3. A full service provider shall have insurance policies covering:
 - a. loss from fire, theft, vandalism, and natural disasters;
 - b. general liability;
 - c. vehicle insurance;
 - d. liability for use of private automobiles by paid or volunteer staff on official business;
 - e. liability for acts of volunteers;
 - f. workers' compensation.

§1179. Target Groups

- A. Preference shall be given to providing services to older individuals with greatest economic and older individuals with greatest social need, with particular attention to low-income minority individuals.
 - 1. The term *greatest economic need* is defined as the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census.
 - 2. The term *greatest social need* means the need caused by non-economic factors, which include physical and mental disabilities, language barriers, cultural or social isolation including that caused by racial or ethnic status, which restrict an individual's ability to perform normal daily tasks or threaten his capacity to live independently.
- B. Full service providers shall attempt to provide services to low-income minority individuals at least in proportion to the number of low-income minority older persons in the population services by the provider.

§1181. Facility Standards

- A. Visibility
 - 1. Full service providers shall make use of facilities that are visible and easily recognized. The facility's external appearance should be attractive and appropriate to its use.
 - 2. Identification signs shall be attractive, in large lettering, and shall make clear the purpose of the facility.
- B. Location
 - 1. Full service providers shall make use of facilities that promote effective program operation and that provide for the health, safety, and comfort of participants, staff and community. The following factors should be given consideration in choosing a service delivery site:
 - a. accessibility to the maximum number of people;
 - b. proximity to other services and facilities;
 - c. convenience to public or private transportation, or location within comfortable walking distance for participants;
 - d. parking space;
 - e. avoidance of structural barriers and difficult terrain;
 - f. safety and security of participants and staff.
 - 2. When appropriate, a full service provider shall make arrangements to offer activities and services at various locations in its service area.
- C. Accessibility

1. Access to and movement within the facility shall be barrier-free for handicapped older adults, in conformance with the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and other applicable law.
2. There should be adequate parking space available to accommodate participants and staff. Parking areas shall be clearly marked with space reserved for handicapped vehicles and multi-passenger vehicles.

D. Design

1. The facility should be comfortable and conducive to participant use.
 - a. Heating, cooling, and ventilation system(s) should permit comfortable conditions without excessive fan noise and drafts.
 - b. Illumination levels in all areas should be adequate, and to the extent possible, shall compensate for visual losses through use of natural light, window location, and higher levels of illumination.
 - c. Transmission of sound should be controlled through acoustical ceiling surfaces, partitions between activity areas, and isolation of noisy rooms such as the kitchen.
 - d. If smoking is permitted, space shall be provided for smokers that does not interfere with the comfort of nonsmokers.
2. The facility should be adequate in size and designed to house contract/subcontract related activities and services, in accordance with applicable laws and regulations.
 - a. Spaces for group activities should be large enough to avoid crowding and shall be located and designed so that meetings and other programs may be conducted without undue interruption.
 - b. Areas for counseling and other individual services should be designed to provide privacy.
 - c. There should be sufficient private office space to permit staff and volunteers to work effectively and without undue interruption.
 - d. There should be adequate storage space for program and operating supplies.
 - e. There shall be sufficient toilet facilities, equipped for use by mobility-limited persons.
 - f. The design should ease participants' movement throughout the facility and encourage involvement in activities and services.

E. Equipment and Furnishings

1. Equipment to be used by participants should be selected for comfort and safety and shall compensate for visual and mobility limitations and other physical disabilities. For example, when possible, the facility shall be equipped with the following:
 - a. extra wide, lightweight, automatic doors;
 - b. hallways wide enough for wheel chairs;

- c. handrails in hallways;
 - d. ramps; and
 - e. bathrooms designed for frail or disabled individuals (easily used: sinks, soap dispensers, toilet flush controls, toilet paper dispensers, grab bars, door hardware not requiring tight grasping or twisting).
2. Furniture arrangement shall promote interaction, permit private conversation and facilitate observation of activities by participants.
 3. The facility should be decorated and furnished in an appealing manner.

F. Responsibility

1. A full service provider's governing body shall have full responsibility for full service provider's facilities, grounds, and equipment. This responsibility may be delegated to a committee or to a designated staff member.
2. Participants should be involved in the design of facilities and selection of equipment and furniture.
3. The governing body or its designee should seek advice from individuals with expertise in designing facilities and selecting equipment for use by older people and from full service providers with experience in these areas.
4. When a facility is rented or shared, when space in several facilities is used, or when a full service provider rents its own space, the governing body shall have written agreements with all relevant parties, concerning time of use, maintenance and repairs, equipment use, security and safety, liability, and insurance. Such facilities shall conform to all requirements of these standards.

G. Safety

1. The facility shall be designed, constructed, and maintained in compliance with all applicable federal, state, and local building safety and fire codes, including the Occupational Safety and Health Act.
2. The full service provider shall make arrangements, as necessary, for the security of participants in the facility.
3. The facility shall be free of hazards, such as high steps and steep grades. Where necessary, arrangements shall be made with local authorities to provide safety zones for those arriving by motor vehicle and adequate traffic signals for pedestrian crossings.
4. The exterior and interior of the facility shall be safe and secure, with adequate lighting, paved exterior walkways, all stairs and ramps equipped with handrails.
5. Bathrooms and kitchens shall include safety features appropriate to their special uses (such as nonskid floors, bacteria-free carpets, kitchen fire extinguishers).
6. Procedures for fire safety shall be adopted and shall include provision for fire drills, inspection and maintenance of fire extinguishers and smoke detectors, periodic inspection, and training by fire department personnel.

H. Maintenance and Upkeep

1. There shall be sufficient maintenance and housekeeping personnel to assure that the facility is clean, sanitary, and safe at all times.
2. The full service provider should contract for repair, maintenance, regular painting, and redecorating services as appropriate.
3. Maintenance and housekeeping shall be carried out on a regular schedule and in conformity with generally accepted standards, without interfering with programs.
4. Provision shall be made for frequent, safe, sanitary disposal of trash and garbage. The full service provider shall adhere to local laws regarding recycling.
5. Provision shall be made for regular pest control.
6. Sufficient budget shall be provided for equipment maintenance, repair, and replacement.

§1183. Civil Rights

A. Civil Rights Act of 1964

1. All full service providers shall provide written assurance of compliance with Title VI and VII of the Civil Rights Act of 1964. Public agencies must have an affirmative action program that complies with federal regulations containing required standards for a merit system of personnel administration.
2. Participants (Title VI)
Full service providers shall ensure that no distinction is made on the grounds of race, color, sex or national origin in providing to individuals any services, financial and/or other benefits financed in whole or part using federal and/or state funds.
3. Employees (Title VII)
Full service providers shall not discriminate against employees or applicants due to age, race, color, religion, sex or national origin.

B. Rehabilitation Act of 1973, as Amended

All full service providers shall take affirmative action pursuant to Executive Order 11246 and the Rehabilitation Act of 1973, as amended, to provide for a positive posture in employing and upgrading persons without regard to race, color, religion, sex, age, national origin or handicap. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer; recruitment; layoff or termination; compensation; and selection for training.

§1185. Political Activity

Full service providers shall not use federal and/or state funds to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the legislature or any parish or municipal governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the legislature or any parish or municipal governing authority.

§1187. Outreach and Coordination Requirements

A. Outreach

Each full service provider shall conduct outreach activities that assure that the maximum number of eligible individuals may have an opportunity to receive services.

B. Coordination

1. Each full service provider shall ensure that services funded through GOEA are coordinated with other appropriate services in the community, and that these services do not constitute an unnecessary duplication of services provided by other sources.
2. Each full service provider shall assist participants in taking advantage of benefits under other programs.
3. With the consent of the older person, or his or her representative, each full service provider shall bring to the attention of appropriate officials for follow-up, conditions that place the older person, or the household of the older person, in imminent danger.
4. Where feasible and appropriate, each full service provider shall arrange for the availability of services to older persons in weather related emergencies.

§1189. Records and Reports

A. Participant Records and Reports

1. Full service providers shall establish and maintain appropriate participant records, using standardized forms to obtain information about the participants and record the participants' involvement in activities conducted under the contract/subcontract. These records may include:
 - a. background (general) information (for example: name, address, sex, birth date, emergency phone numbers);
 - b. interests and skills;
 - c. attendance information;

- d. volunteer activities; and
 - e. case reports, including referral and follow-up instructions.
2. These records shall be used to:
 - a. help serve individual participants appropriately;
 - b. prepare reports;
 - c. meet planning, evaluation, and legal requirements; and
 - d. maintain accountability to GOEA.
 3. Participant records and reports shall be reviewed periodically by appropriate staff, to evaluate their adequacy and continued usefulness and to assure that they protect the confidentiality of participants.
- B. Program Records and Reports
1. Full service providers shall maintain a system of records on activities conducted under the contract/subcontract in order to document current operations, meet funding requirements, promote community support, and guide planning. These records shall include at least the following:
 - a. descriptions of services and activities provided;
 - b. unduplicated rosters of persons served;
 - c. number of persons served, by type of service and activity;
 - d. number of units (for example, units of referrals, meals served, interview hours, socialization hours) of each type of service and activity; and
 - e. participant assessment of services and activities.
 2. Program reports shall be submitted to the funding agency in the form prescribed.
 3. Full service providers should prepare an annual report providing an overview of the full service provider's program and operation, and shall distribute it or make it available to governing body, staff, volunteers, funders, public officials, and the general public.
 4. Program records and reports shall be reviewed periodically by appropriate staff, to evaluate the records' adequacy and continued usefulness.
- C. Administrative Records and Reports
1. Administrative records and reports shall be established and maintained on the full service provider's total operation to satisfy legal requirements and for use as a management tool. These shall include:
 - a. written records of all policies set forth by the governing body;
 - b. minutes of governing body meetings;
 - c. minutes of advisory committee meetings, including records of major decisions;

- d. personnel records;
 - e. fiscal records;
 - f. correspondence;
 - g. safety, fire inspection, public health inspection, and related reports;
 - h. accident reports and procedures;
 - i. statistical information;
 - j. annual reports, reflecting fiscal and program activity of the center; and
 - k. historical records, clippings, and other documents.
2. An employee record shall be maintained, and should contain at least the following:
- a. application for employment, including a résumé;
 - b. letters of reference;
 - c. job description;
 - d. letters of employment;
 - e. record of compensation, promotion, and salary adjustments;
 - f. evaluation and commendations;
 - g. disciplinary actions; and
 - h. correspondence on personnel matters.
3. Administrative records and reports shall be reviewed periodically by appropriate staff to evaluate their adequacy and continued usefulness.
4. An appropriate policy, consistent with administrative and legal requirements, should be established for retaining records and reports.
- D. Confidentiality
1. All records and reports that contain personal or other sensitive information about participants, staff, and volunteers shall be kept confidential.
2. Procedures to ensure confidentiality shall include:
- a. provision for secure storage of confidential records, whether in paper or computer files;
 - b. limiting access to confidential records to persons with a demonstrable need to know the information they contain;
 - c. protecting the identity of individuals in reports or other documents through use of such devices as coding or generalization of information;
 - d. obtaining permission of the individual through a release of information form before data contained in confidential records is released to persons or agencies outside the full service provider.

E. Staff Training

1. Full service providers shall provide training for staff and volunteers who are assigned to record keeping that includes:
 - a. information about the full service provider's system of record keeping (for example, types of records and reports and how they are used);
 - b. training for computer-based information systems, if used by the full service provider; and
 - c. instruction about procedures to ensure confidentiality of participants and staff.
2. At each site seniors receive services the full-service provider shall ensure:
 - a. employees are trained in first-aid/CPR and blood-borne pathogens and
 - b. a blood-borne pathogen kit is available.

§1191. Confidentiality and Disclosure of Information

- A. No information about an older person, or obtained from an older person by a full service provider or the state or AAAs, shall be disclosed by the provider or agency in a form that identifies the person without the informed consent of the person or of his or her legal representative, unless the disclosure is required by court order, or for program monitoring by authorized federal, state, or local monitoring agencies. Such consent must be in writing and shall be dated within one year of the release of information.
- B. Nothing in this Section shall preclude the reporting of suspected abuse or neglect under the Louisiana Adult Protective Services Law.
- C. The confidentiality protections concerning any complainant or resident of a long term care facility as prescribed in the Older Americans Act (OAA) Section. 712. and §1229. of this manual shall be strictly adhered to.
- D. A legal assistance provider is not required to reveal any information that is protected by attorney client privilege.
- E. All information containing client information no longer needed for record keeping purposes shall be shredded, burned or disposed of in a form in which identifying information cannot be extracted.

§1193. Financial Resource Development

- A. A full service provider's administrative staff and governing body shall seek additional resources to increase program support and ensure program funding.
- B. Fund-raising activities conducted by contractor/ subcontractor-sponsored groups (for example, advisory committees, RSVP, etc.) shall be approved by the governing body.

- C. If any fees for services, supplies, and activities are charged, the fees shall be reasonable and equitable.
- D. Membership dues shall not be allowed.

§1195. Contributions for Older Americans Act Title III Services

A. Opportunity to Contribute

- 1. Each OAA Title III service provider shall:
 - a. provide each participant an opportunity to voluntarily contribute to the cost of the service;
 - b. protect the privacy of each older person with respect to his or her contributions;
 - c. establish appropriate procedures to safeguard and account for all contributions; and
 - d. use all supportive and nutrition services contributions collected in each parish to expand supportive and nutrition services respectively in that parish.

B. Contribution Schedules

OAA Title III service providers may develop a suggested contribution schedule for services provided. In developing a contribution schedule, the provider shall consider the income ranges of older persons in the community and the provider's other sources of income.

C. Failure to Contribute

Means tests may not be used for any service supported with OAA funds. A service provider shall not deny any older person a service because the older person will not or cannot contribute to the cost of the service.

D. Contributions as Program Income

Contributions made by OAA Title III participants are considered program income. Such funds shall be used in accordance with §1197.C. of this manual.

§1197. Program Income

(See also *Office of Elderly Affairs' Accounting Guide for Sub-recipients* available at www.goea.la.gov)

A. General

GOEA contractors and subcontractors are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with contract funds, from the sale of merchandise or items fabricated under the contract, and from payments of principal and interest on loans made with contract funds. Program income does not include interest on contract funds, rebates, credits, discounts, refunds, etc. and interest earned on any item.

B. Definition of Program Income

See Glossary

C. Use of Program Income

1. OAA Title III Program Income

Each service provider shall use program income to expand supportive and nutrition services respectively.

2. Senior Center Program Income

All state funded senior center program income other than that which is designated for OAA services shall be used to expand senior center activities.

3. Service providers shall follow the additional alternative in 45 CFR 92.25(g). Program Income shall be added to the federal and state funds committed to the contract agreement. However, state and federal funds can only be applied to net expenditures. Net expenditures are calculated by subtracting all program income collected from total allowable costs.

4. All program income collected must be used for current period expenses unless GOEA authorizes deferral to a later period.

5. Proceeds from the sale of real property purchased using program income will be handled in accordance with the provisions of 45 CFR 92.31 and 92.32 as provided in §1199. of this manual.

§1199. Property Control and Disposition

(See also *Office of Elderly Affairs' Accounting Guide for Sub-recipients* available at www.goea.la.gov)

A. Applicability

This Section applies to all property, as defined below, purchased wholly or partially with the GOEA funds. In instances where GOEA Policy and Procedure Manual is more restrictive than Federal Regulations, Title 45, Part 74, Subpart C, GOEA Policy and Procedure Manual supersedes. Any provision of this Section which conflicts with above federal regulations is void. This Section is intended to provide guidance for the most common property situations and to specify areas where GOEA Policy and Procedure is more restrictive than Title 45, Part 74, Subpart C. Any property definitions or situations not covered by this Section are subject to Title 45, Part 74, Subpart C.

B. Definitions

See Glossary

C. Required Records and Reporting for Property Inventory

1. All recipients are required to maintain and update property records which include the following information on all tangible property which meets the definition of equipment in Subsection B of this Section:
 - a. identification or tag number;
 - b. manufacturer's serial or model number;
 - c. description of property;
 - d. location of property;
 - e. acquisition cost and date;
 - f. source of funds or program(s); and
 - g. information on replacement, transfer, or disposition.
2. Gifts of moveable property must be given a fair market value as agreed upon between the donor and head of the receiving agency and recorded in the inventory if the fair market value is \$1,000 or more.
3. Agencies which are eligible to receive federal surplus property must place on inventory all items acquired from federal surplus which would ordinarily be classified as moveable property and which have an acquisition cost of \$1,000 or more. The acquisition date will be the acquisition date by the agency and the acquisition cost will be the actual cost incurred by the GOEA contractor or subcontractor.

NOTE: There are federal regulations regarding accountability for federal surplus property. Service providers should contact the Federal Surplus Property Section for information regarding these regulations.

4. The head of the agency, at his/her discretion, may include items such as computers, electronic calculators, desks, file cabinets and other property having an acquisition cost of less than \$1,000 in the inventory.
5. The updated inventory must be submitted annually to the GOEA with final fiscal reports of the contract/grant period. This inventory must reflect all property purchased with the GOEA funds under the current or previous contract(s). If property was disposed of during the current period, such property and related disposition information must be included on this inventory. Subsequent inventories will exclude such property.

D. Replacement of Equipment

1. Equipment may be exchanged for replacement equipment without prior approval from the GOEA. Such replacement can be made by trade-in or by selling old equipment and applying the proceeds toward the acquisition cost of replacement equipment. In either case, the transaction must be one which a prudent person would make in like circumstances.

2. If additional funds are needed to purchase replacement equipment, the value of the replacement equipment is computed by adding the additional outlay plus the proceeds from the sale of old equipment or the trade-in value given for old equipment.

E. Disposition or Transfer of Property/Equipment for Continuing Grants/Programs

1. Request for Instructions

a. Real Property

When real property is no longer needed for the original authorized purpose, the recipient will request disposition instructions from the GOEA as stated in §1199.E.2. of this manual.

b. Equipment

- i. Equipment with a unit acquisition cost of less than \$5,000 may be retained, sold, or otherwise disposed of without prior approval from the GOEA. Any proceeds from the sale of such equipment must be properly documented, accounted for, and applied as other revenue for the GOEA funded or supported programs.
- ii. Equipment with a unit acquisition cost equal to or greater than \$5,000 or real property can be disposed of only with prior approval from the GOEA. When such property becomes surplus to the recipient's need or is no longer to be used for the GOEA funded or supported programs, the recipient must submit a written request for disposition instructions as stated in §1199.E.2. of this manual.

2. Disposition Instructions

- a. The written request for disposition instructions must include the following information:
 - i. property description (tag number, acquisition cost and date, source of funds used to purchase, check number and date, etc.);
 - ii. condition of property (odometer reading, repairs needed, working order, etc.); and
 - iii. reason for disposal.
- b. Disposition instructions from the GOEA will provide for one of the following alternatives.
 - i. Transfer of Title
Recipient will transfer title and property to the GOEA or designee. Recipient will be paid for any transfer fees or related costs. If property was not purchased wholly with the GOEA funds, recipient will be paid for the non-GOEA share based on current market value. AAA's may transfer equipment covered by this Part within their PSA provided the above transfer guidelines are followed.
 - ii. Sale of Property

Recipient will sell property in a manner which provides for competition to the extent practicable and which maximizes the return, and proceeds (or the GOEA share) will be remitted to the GOEA. Recipient may retain the lesser of \$500 or 10 percent of proceeds from the sale of equipment to cover disposition costs. Recipient may retain a portion of proceeds from sale of real property to pay for actual and reasonable selling expenses. Recipient may request permission to retain net proceeds from the sale of equipment and to apply such proceeds toward allowable costs of the GOEA funded or supported programs.

iii. Retention of Title

Recipient may retain the property after remitting to the GOEA an amount equal to the current market value of the property the GOEA share of such value if property was not purchased wholly with the GOEA funds.

F. Disposition of Property upon Expiration or Termination of Grant/Program

1. Specific disposition instructions for all property other than supplies must be obtained from the GOEA.
2. The following guidelines apply for unused supplies exceeding \$5,000 in total aggregate fair market value and not needed for any program currently funded by the GOEA.
 - a. Recipient may retain such supplies and remit to the GOEA its share of the market value.
 - b. Recipient may sell such supplies and remit to the GOEA its share of proceeds from the sale.

§1201. Purchasing

(See also *Office of Elderly Affairs' Accounting Guide for Sub-recipients* available at www.goea.la.gov)

A. Applicability

This Section covers all purchases of supplies, equipment or services by the GOEA recipients under allowable cost funding. OAA Title III service procurement and professional service procurement are not covered by this Section.

When procuring property and services under a Federal award, Federal Procurement Standards found in 2 CFR 200.318 through 200.326 must be followed.

B. Governor's Office of Elderly Affairs Purchasing Policy

1. The GOEA recipients shall make positive efforts to utilize small businesses and minority-owned business sources of supplies and services. Louisiana businesses, especially certified small and emerging businesses, small entrepreneurships, and

veterans or service-connected disabled veteran-owned small entrepreneurship should be utilized to the greatest extent possible when soliciting supplies and services.

The following organizations may be contacted for information:

- a. Division of Small and Emerging Business Development (Department of Economic Development) for details regarding the Small and Emerging Business Development Program (LA RS 51:941 et seq.)
 - b. Division of Certified Small and Emerging Business Development for the most recent list of certified small and emerging businesses
 - c. Department of Economic Development for information on the Louisiana Initiative for Small Entrepreneurships (Hudson Initiative) (LA RS 39:2006)
 - d. Department of Economic Development for details regarding the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships (The Veteran Initiative) (LA RS 39:2176)
2. The GOEA recipients are encouraged to utilize state contracts in making purchases. The GOEA can provide a listing of State Purchasing personnel and telephone numbers to contact for price, vendor, and contract number information. Normally a local vendor will be listed on state contract. The use of state contract(s) eliminates all need for bidding and advertisements.
3. As defined in LA RS 38:2211(A)(11), the GOEA recipients are public entities subject to the provisions of the Louisiana Public Bid Law, including provisions applicable to public works projects. All contracts for public works exceeding the current contract threshold of \$152,550 must be advertised for bid and let for contract with the lowest responsible and responsive bidder. Contracts for public works valued at \$152,550 should be administered through a Request for Proposal (RFP) process and/or solicitation of at least three bids. All contracts for public works by public entities must use the Louisiana Uniform Public Work Bid Form established by the Office of Facility Planning and Control. R.S. 38:2212(B)(2). The Louisiana Uniform Public Work Bid Form is published in the Louisiana Administrative Code under Title 34, Government Contracts, Procurement and Property Control, Part III. Facility Planning and Control, Chapter 3. Louisiana Uniform Public Work Bid Form.

C. Methods of Purchasing

1. Small Purchases

Any procurement not exceeding \$15,000 shall be made in accordance with the small purchase procedures in Subsection D of this Section. Those purchases defined in Paragraph 7 of Subsection D of this Section shall be deemed small purchases regardless of price. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section.

2. Competitive Sealed Bidding

Purchases exceeding \$25,000 shall be by competitive sealed bidding.

D. Small Purchase Procedures

1. For purchases equal to or less than \$2,000, no competitive bidding is required.
2. Purchases over \$2,000 but less than or equal to \$15,000 shall be made by soliciting three price quotations except in cases of emergency. (Emergencies shall be documented.) The quotations may be solicited by telephone, facsimile, or other means. Whenever possible, at least one of the bona fide, qualified bidders shall be a certified economically disadvantaged business. Agency files shall document and list all solicited bidders and each bidder's contact person, summarize bid responses, indicate the awarded bid, and state the reason any lower bid was rejected. If no bid was solicited from a certified economically disadvantaged business, agency files shall contain a written explanation of why such a bid was not solicited. Agency files should also contain written confirmation of the bid from the successful bidder.
3. Purchases over \$15,000 But Less Than or Equal to \$25,000
 - a. Purchases over \$15,000 but less than or equal to \$25,000 shall not be made except by soliciting price quotations either written or by facsimile from at least five bona fide qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be certified economically disadvantaged businesses. Solicitations shall allow for bids to be accepted for a minimum period of 10 calendar days.
 - b. All solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable bid.
 - c. Precautionary measures shall be taken to safeguard the confidentiality of bid responses prior to the closing time for receipt of bids. No bid shall be evaluated using criteria not disclosed in the solicitation.
 - d. Agency files shall document and list all solicited bidders and each bidder's response, summarize bid responses, indicate the awarded bid, and state the reason why any lower bid was rejected. If fewer than two bids were solicited from certified economically disadvantaged businesses, agency files shall contain a written explanation of why two bids were not solicited.
4. No purchase where the estimated cost is over \$25,000 shall be made except by advertising in accordance with Subsection E of this Section and sending out written invitations for bids to at least eight bona fide qualified bidders.
5. Automotive, Machinery and Equipment Parts

Repairs and parts associated with repairs for automobiles and machinery shall be obtained by either:

- a. the use of an authorized dealer—a dealer certified by the manufacturer to perform maintenance on their equipment; or
 - b. obtaining competitive bids as indicated above.
6. Exceptions to minimum competitive requirements include:
- a. federal government surplus property;
 - b. textbooks, newspapers, subscriptions, or foreign publications, and membership;
 - c. all public utilities;
 - d. all services provided by local government (Example: garbage pick-up); and
 - e. parcel services, including but not limited to Federal Express, United Parcel Service, Airborne Express, and Express Mail.
7. Quotations should be obtained from at least three bona fide, qualified bidders where possible in the purchase of perishable foods. When possible, at least one of the bona fide, qualified bidders shall be a certified economically disadvantaged business.
- E. Competitive Sealed Bidding Process
1. Invitation for Bids
Competitive sealed bidding shall be initiated by the issuance of an invitation for bids containing a description of the supplies, services, or major repairs to be procured and all contractual terms and conditions applicable to the procurement.
 2. Public Notice
 - a. Written public notice of the invitation for bids shall be given at least 10 days prior to the date set forth therein for the opening of bids. If the amount of the purchase is \$25,000 or more, such notice shall be mailed to persons in a position to furnish the supplies, services, or major repairs required, as shown by its records, and by advertising.
 - b. The advertisements or written notices shall contain general descriptions of the supplies, services, or major repairs for which bids are wanted and shall state:
 - i. the names and locations of the departments or institutions for which the purchases are to be made;
 - ii. where and how specifications and quotation forms may be obtained; and
 - iii. the date and time not later than which bids must be received and will be opened.
 - c. Each advertisement shall be published in the official journal of parish government.
 3. Bid Opening

Bids shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and open to public inspection.

4. Bid Evaluation

Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, and criteria affecting price such as life cycle or total ownership costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.

5. Correction or Withdrawal of Bids

Patent errors in bids or errors in bids supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders, and such actions may be taken only to the extent permitted under regulations.

6. Award

- a. The contract shall be awarded, with reasonable promptness, by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. Award shall be made by unconditional acceptance of a bid without alteration or correction, except as authorized in this Subsection.
- b. Responsive bidder means a person who has submitted a bid which conforms in all substantive respects to the invitation for bids, including the specifications set forth in the invitation.
- c. The term *responsible bidder* means a person who has the capability in all respects to perform the contract requirements and the integrity and reliability which will assure good faith performance.

F. Responsibility of Bidders and Offerors

1. A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted. The unreasonable failure of a bidder or offeror to promptly supply information in connection with such an inquiry may be grounds for a determination of non-responsibility with respect to such bidder or offeror.
2. Whenever the board of directors proposes to disqualify the lowest bidder on bids of more than \$25,000, the board shall do the following:
 - a. give written notice of the proposed disqualification to such bidder and include in the written notice all reasons for the proposed disqualification; and

- b. give such bidder who is proposed to be disqualified, a reasonable opportunity to be heard at an informal hearing at which such bidder is afforded the opportunity to refute the reasons for the disqualification.

G. Specifications

1. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the needs of the state, and shall not be unduly restrictive. A specification may be drafted which describes a product which is proprietary to one company only where:
 - a. no other kind of specification is reasonably available for the state to describe its requirements; or
 - b. there is a requirement for specifying a particular design or make of product due to factors of compatibility, standardization, or maintainability; or
 - c. such specification includes language which specifically permits an equivalent product to be supplied. Such specification shall include a description of the essential characteristics of the product; or
 - d. such specification is determined to be in the best interest of the state.
2. Except in §1201.G.1.b. of this manual, whenever such proprietary specifications are used, the specifications shall clearly state that they are used only to denote the quality standard of supplies, services, or major repairs desired, and that they do not restrict bidders to the specific brand, make, manufacturer, or specification named; that they are used only to set forth and convey to prospective bidders the general style, type, character, and quality of supplies, services, or major repairs desired; and that equivalent supplies, services, or major repairs will be acceptable.

H. Contract Clauses

1. Contract Clauses

Agencies may include clauses providing for equitable adjustments in prices, time for performance, or other purchase contract provisions, as appropriate, covering the following subjects:

- a. the unilateral right of the agency to order, in writing, changes in the work within the general scope of the contract in any one or more of the following:
 - i. drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the agency in accordance therewith;
 - ii. method of shipment or packing; or
 - iii. place of delivery;

- b. the unilateral right of the agency to order, in writing, temporary stopping of the work or delaying of performance; and
- c. variations between estimated quantities of work in a contract and actual quantities.

2. Additional Contract Clauses

Agencies may include clauses in contracts providing for appropriate remedies and covering the following subjects:

- a. liquidated damages, as appropriate;
 - b. specified excuses for delay or nonperformance;
 - c. termination of the contract for default;
 - d. termination of the contract in whole or in part for the convenience of the agency; and
 - e. manufacturers' design drawings shall be supplied in duplicate for all buildings, to the appropriate agency at the conclusion of the contract.
3. In the event any contractor fails to fulfill or comply with the terms of any contract, the agency may award the contract to the next lowest responsible bidder, subject to acceptance by that bidder, and charge the difference in cost to the defaulting vendor.

4. Escalation Clause

Bid specifications may contemplate a fixed escalation or de-escalation in accordance with the United States Bureau of Labor Statistics, Consumer Price Index and Wholesale Price Index. Bids based on specifications which are subject to a recognized escalation index shall be legal and valid.

I. Reporting of Suspected Collusive Bidding or Negotiations

1. Notification to the Governor's Office of Elderly Affairs

When, for any reason, collusion is suspected among any bidders or offerors, a written notice of the relevant facts shall be transmitted to the GOEA.

2. Retention of All Documents

All documents involved in any procurement in which collusion is suspected shall be retained for a minimum of six years, or until the GOEA gives written notice that they may be destroyed, whichever period is shorter. All retained documents shall be made available to the GOEA upon request and proper receipt therefor.

J. Emergency Procurement

1. Conditions for Use

The board of directors may make or authorize others to make emergency procurements when there exists an imminent threat to the public health, welfare, safety, or public property under emergency conditions, as defined in accordance with regulations.

2. Written Quotations

Every effort shall be made to obtain quotations from three or more vendors when supplies, services, or major repairs are to be purchased on an emergency basis, except for standard equipment parts for which prices are established. Immediate purchasing shall be discouraged as much as is practicable. When supplies, services, or major repairs are urgently required, and time does not permit the obtaining of written quotations, the agency may obtain quotations by telephoning or otherwise.

3. Determination Required

The board of directors shall make a written determination of the basis of the emergency that includes the facts and circumstances leading to the conclusion that such procurement was necessary, as well as a written determination detailing the steps taken prior to selecting a particular contractor and the basis for the final selection. The written determination shall be included in the contract file, either prior to contracting or as soon thereafter as practicable.

K. Appeals Procedure

1. Applicability

This Section applies to controversies between the agency and supplier which arise under or by virtue of a contract between them or in connection with the solicitation or award of a contract. Protests with respect to a solicitation shall be submitted, in writing, prior to the opening of bids. Protests with respect to the award of a contract shall be submitted, in writing, within 60 days after bid opening or 14 days after contract award, whichever is later.

2. Authority

The agency is authorized, prior to the commencement of an action in court concerning the controversy, to settle and resolve, with the approval of the GOEA, a controversy described in §1201.K.1. of this manual. This authority shall be exercised in accordance with regulations.

3. Decision

If such a claim or controversy is not resolved by mutual agreement, the agency shall promptly issue a decision in writing. The decision shall:

- a. state the reasons for the action taken; and

- b. inform the contractor of its rights to administrative and judicial review, as provided in this Subsection.
- 4. Notice of Decision
A copy of the decision under §1201.K.3. of this manual shall be mailed or otherwise furnished immediately to the contractor.
- 5. Finality of Decision
The decision under §1201.K.3. of this manual shall be final and conclusive, unless the decision is fraudulent.

§1203. Applicable Laws and Standards

Service providers shall comply with all OEA licensing standards, all applicable accrediting standards, any applicable federal standards and all applicable state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1231.9(e)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1476 (August 1999), LR 42:1508 (September 2016)

§1207. Monitoring by the Governor's Office of Elderly Affairs

- A. Service providers shall make available, as deemed necessary by the GOEA, all records pertaining to any project funded through the GOEA.
- B. GOEA shall be permitted to audit, examine and make excerpts from invoices, materials, payroll, records of personnel, conditions of employment and other data relating to matters covered by the subcontract.
- C. The GOEA's representative shall be allowed to visually inspect the service provider's facilities and equipment and to interview participants.

§1209. Eldercare/Case Management

- A. Title III subcontractors may provide eldercare, as specified in §1241. of this manual.
- B. Title III subcontractors may provide one or more components of case management for a private entity, as specified in §1241. of this manual.

UNIFORM SERVICE REQUIREMENTS

§1215. Service Recipient Priorities and Eligibility Requirements

- A. Eligibility
 - 1. Persons who are 60 years of age or older may receive services provided using Older Americans Act (OAA) and state senior center funds.
 - 2. No one is entitled to services by virtue of age alone. The Governor's Office of Elderly Affairs (GOEA) uniform intake and assessment instrument shall be used to determine the order in which older individuals will be served.
 - 3. Persons age 60 and over who are frail, homebound by reason of illness or incapacitating disability, or otherwise isolated, shall be given priority in the delivery of services.
- B. As stated in §1179 of this manual, preference shall be given to providing services to older individuals with greatest economic and social need, with particular attention to older individuals who are low-income minority, have limited English proficiency, and/or reside in rural areas.
- C. Means tests shall not be used for any service supported with OAA Title III funds or state senior center funds. Moreover, service providers shall not deny any older person a service because the older person will not or cannot contribute to the cost of the service.

§1217. Uniform Definitions of Services for the Aging

- A. Uniform definitions of supportive and nutrition services issued by the GOEA shall be employed by all providers.
- B. These definitions shall be used for record keeping, accounting and reporting purposes, as prescribed in this manual and through other requirements issued by the GOEA.

§1219. Title III-B Supportive Services and Senior Centers

- A. Part B of Title III of the OAA authorizes the distribution of federal funds to the State Agencies on Aging by formula for supportive services and senior centers. Funds authorized under Title III-B are for the purpose of assisting the state and its area agencies on aging (AAA) in developing and/or enhancing comprehensive and coordinated community based systems for older persons as described in 45 CFR §1321.53(b) throughout the state.
- B. The GOEA shall award Title III-B funds to designated AAAs according to the formula determined by the GOEA. All funds awarded to the AAAs under Title III-B are for the purpose of assisting the AAAs in developing and/or enhancing comprehensive and coordinated community based systems for older persons in communities throughout the planning and service area. Except where a waiver is granted by the GOEA, AAAs shall award these funds by contract to community service provider agencies and organizations.
- C. The term *supportive services* refers to those services listed in Section 321.(a) of the OAA.

- D. Title III-B funds may be used for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers.
- E. Title III-B funds may be used for the purpose of assisting in the operation of multipurpose senior centers and meeting all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

§1223. Title III-C Nutrition Services

A. Definitions of Nutrition Services

See Glossary

B. Participant Eligibility

1. Congregate Nutrition Services

- a. Eligible participants include:
 - i. persons aged 60 or older, and their spouses, regardless of age. Preference must be given to clients who are economically and/or socially needy;
 - ii. handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided.
- b. Nutrition services providers may offer nutrition services to elderly guests (age 60 and above) on the same basis as meals are provided to regular participants.
- c. Guests who have not attained age 60 may receive congregate meals, provided no eligible participant age 60 or older is denied a meal. Guests under age 60 must pay the full cost of the meal. This payment shall not be considered program income, but as reimbursement of expenses.
- d. Each AAA shall establish procedures that will allow nutrition services providers the option to offer a meal, on the same basis as meals are provided to participants, to individuals providing volunteer services during the meal hours, and to individuals who reside at home with and accompany disabled older individuals who are eligible Title III participants.

2. Home-Delivered Nutrition Services

- a. Eligible participants include:
 - i. persons age 60 or older who are homebound by reason of illness, incapacitating disability, or are otherwise isolated;
 - ii. the spouse residing with the recipient, regardless of age or condition, may receive a home-delivered meal if, according to criteria determined by the AAA, receipt of the meal is in the best interest of the homebound older person.
- b. Each AAA must establish procedures for nutrition projects to ensure that participants receiving home-delivered meals shall be selected and prioritized using the GOEA's Uniform Intake and Assessment Instrument. The minimum criteria for determination

of need are that the participant must be unable to leave home without assistance and have no one available to provide assistance in the preparation and consumption of a meal. Preference must be given to clients who are economically and/or socially needy. However, no criteria that disqualifies an eligible participant from receiving nutrition services shall be established.

C. USDA Entitlement

1. The United States Department of Agriculture (USDA) provides USDA food, cash, or a combination of food and cash for nutrition services providers. The GOEA will distribute cash received from USDA to the AAAs for nutrition services based on each AAA's proportion of the total number of eligible meals served in the state. The Louisiana Department of Agriculture contracts directly with the nutrition services provider for the distribution of USDA food.
2. A meal served in Title III-C programs is eligible for USDA support, regardless of the funding source, if it meets the following three criteria.
 - a. The meal served provides a minimum of one-third of the 1989 Recommended Dietary Allowance (RDAs) established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences.
 - b. The meal is served to an individual who is eligible for a meal as specified in §1223.B. of this manual.
 - c. The meal is served by an agency which has received a contract from an AAA or the GOEA to provide meals.
3. AAAs must spend USDA cash for buying only United States agricultural commodities and food.
4. The requirements of 7 CFR Part 250 for participation in the USDA program govern all USDA commodity transactions for the elderly nutrition program. The nutrition services provider must establish procedures for any USDA food made available and must assure appropriate and cost effective arrangements for the transportation, storage and use of the food. The AAA should require the inclusion of USDA regulatory mandates in contracts/grants with Title III-C providers and subcontractors.

D. Selection of Nutrition Services Providers.

An AAA may make awards for congregate and home-delivered nutrition services to a provider that furnishes either or both type(s) of service.

1. Nutrition Services Providers.

The AAA must award funds for the provision of nutrition services through a competitive process in compliance with guidelines established by the GOEA.

2. Home-Delivered Meals Providers.

To the extent feasible, in making awards for home-delivered meals, an area agency must give preference to public, private nonprofit, and voluntary organizations which:

- a. have demonstrated an ability to provide home-delivered meals efficiently and reasonably; and

- b. have furnished assurances to maintain efforts to solicit voluntary support and not to use the funds received under this Part to take the place of funds from non-federal sources
- E. Special Staffing Requirements
- 1. AAA
 - a. Each AAA must employ a Louisiana licensed dietitian/nutritionist (LDN) full-time, part-time or as a consultant.
 - b. Responsibilities of the dietitian/nutritionist shall include, but not be limited to:
 - i. review menus and nutritional analyses;
 - ii. at a minimum, annual on-site review of nutrition sites;
 - iii. monitoring provision of regular nutrition education activities and development of programs to be used by staff;
 - iv. providing technical assistance to nutrition site staff;
 - v. training nutrition personnel;
 - vi. reviewing and monitoring special diets;
 - vii. monitoring USDA commodity utilization;
 - viii. making field checks of home-delivered meals;
 - ix. reviewing layouts and plans for kitchens to be constructed with the GOEA funds; and
 - x. quarterly on-site assessments of kitchen facilities. This assessment shall include, but not be limited to:
 - a) general sanitation;
 - b) review of standardized recipes and good production records to ensure that adequate food amounts are used for the portions ordered; and
 - c) review of all products used to ensure that minimum standards of bid specifications are met.
 - 2. Service Providers.

Each nutrition service provider must employ an adequate number of qualified staff to assure satisfactory conduct of services.
- F. Minimum Standards
- 1. The AAA shall assure that each nutrition service provider employs mechanisms to insure sound financial management. The AAA must develop a policy which assures that each congregate nutrition provider shall:
 - a. have a site director who is responsible for activities at the site;
 - b. assure employees paid with Title III-C funds, the site director, and other related staff shall be limited to four hours per day for services directly related to serving meals;
 - c. serve an average of at least 20 meals per day at each congregate site or a number that is determined to be cost effective and a lesser number is approved by the GOEA;
 - d. serve meals at least five days per week, no less than 250 days per year (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the state agency);
 - e. make special provisions as necessary for the service of meals to eligible handicapped individuals;

- f. provide meals during emergencies where feasible in accordance with menus approved annually by the AAAs Dietitian/Nutritionist;
 - g. post emergency procedures, (e.g., fire, storms, etc.);
 - h. have available to the public a copy of written policy for determining who is eligible to receive home-delivered meals; and
 - i. have a copy of the written policy for determining transfer of participants from home-delivered status to congregate status and back as required for health, weather, transportation, or other reasons and;
 - j. each AAA shall establish procedures that will include the option of offering a meal, on the same basis as meals are provided to elderly participants, to individuals providing volunteer services during the meal hours, and to individuals with disabilities who reside at home with and/or accompany older individuals who are eligible under the OAA.
2. Nutrition sites shall be located in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon multipurpose senior centers, schools, churches, or other appropriate community facilities, preferably within walking distance where possible, and where appropriate, transportation to such sites is furnished. Emphasis shall be placed on locating sites in areas having high concentrations of economic or social needy older individuals.
 3. The AAA must develop procedures that will assure a quarterly inspection of each nutrition site by appropriate staff.
 4. The AAA shall maintain on file supporting documentation of food temperatures, routes, delivery, etc., for each site. Food temperatures must be recorded at nutrition sites when food is placed in holding equipment and again immediately before service. These records must be maintained on file for one year.
 5. The AAA shall assess all Title III-C Nutrition Program participants using GOEA's Uniform Intake and Assessment Instrument for all nutrition participants. At a minimum, each client's record should include:
 - a. the participant's name;
 - b. address;
 - c. telephone number;
 - d. date of birth;
 - e. sex; and
 - f. emergency information.
 6. The AAA shall develop and utilize a system for documenting C-1 and C-2 meals served and discarded.
 7. The AAA shall establish procedures to accurately project daily meal counts in order to minimize discarded meals.
 8. Exceptions to the assurances in Paragraph 1 of this Subsection must be approved in writing by the GOEA.
- G. Sanitary Code.

The GOEA has adopted the Louisiana Sanitary Code (Chapter VII Eating and Drinking Establishments) as policy to be followed for congregate and home-delivered nutrition services.

H. Reassessment for Home Delivered Meals.

Each home-delivered meal provider must reassess the need for home-delivered meals and other nutrition services annually in accordance with GOEA uniform intake and assessment procedures.

I. Food Procurement.

All food procurement must be transacted in accordance with the purchasing requirements stated in §1201.C.1 of this manual.

J. Food Stamp Program.

Nutrition services providers must assist participants in taking advantage of benefits available to them under the food stamp program. Nutrition services providers must coordinate their activities with agencies responsible for administering the food stamp program to facilitate participation of eligible older persons in the program.

K. Food Requirements

1. In purchasing food, and preparing and delivering meals, nutrition services providers must preserve nutritional value and food safety.
2. Nutrition services providers may make special menus available, to meet the particular dietary needs arising from the health, religious requirements, and/or ethnic backgrounds of eligible individuals. In determining feasibility and appropriateness, a nutrition services provider must consider the following factors:
 - a. whether there are sufficient numbers of persons who need the special menus to make their provision practical; and
 - b. whether the food and skills necessary to prepare the special menus are available.

L. Food Preparation.

All staff employed in the preparation of food shall be under the supervision of a person who will ensure the application of hygienic techniques and practices in food handling, preparation, and service. This supervisory person shall consult the dietitian for advice and consultation as necessary.

M. Meals Packaging and Packing Standards

1. All meals packaged at the food preparation centers or nutrition sites must be individually packaged first (before congregate meals are served), packed in secondary NSF- approved insulated food carriers with tight fitting lids, and transported immediately.
2. Hot food items must be transported in NSF-approved insulated carriers. Any exceptions must be approved by the GOEA. Cold items must be transported in an insulated carrier. Styrofoam carriers are not acceptable.
3. All hot bulk food sent from the food preparation center(s) to nutrition sites must be packed with tight fitting lids and transported immediately.

4. Cold and hot food must be packaged and packed separately. Divided containers must be used for hot food. Appropriate individual containers with tight fitting lids must be used for all cold food. "Sandwich" type bags which can be sealed may be used for bread. Bread must not be placed on top of other food. All food delivery equipment and carriers must be sanitized daily.

N. Delivery of Home-Delivered Meals.

Home-delivered nutrition service providers may use various methods of delivery; however, the following standards shall apply.

1. Title III-C funds may be used to provide additional daily meals to participants. These meals may be delivered hot, chilled, frozen, dried, canned, or as supplemental foods within a satisfactory storage life. Proper storage and heating facilities must be available in the home, and the participant should be able to consume the meal(s) either by himself or with available assistance. Directions for properly preparing chilled, frozen, dried, or canned foods shall be provided to the participant.
2. Each delivery route must be clearly established, in writing, or delineated on a map or diagram.
3. Meals must be delivered in the order in which they are packaged. Volunteers must not open carrier and rearrange the meals.
4. Each meal must be received at the participant's home by an individual.
5. Nutrition funds can be used to pay for volunteer mileage at the applicable rate for home-delivered meals only.

O. Maximum Holding Time.

The maximum allowable time interval between preparation and delivery to participants is six hours for congregate and home-delivered meals.

P. Food Safety.

All foods used in the program must meet standards of quality, sanitation, and safety applicable to foods that are processed commercially. No food which is prepared, frozen, or canned in the home may be used.

Q. Menu Standards

1. Menus prepared for the nutrition program must:
 - a. comply with the most recent Dietary Guidelines for Americans, published by the Secretary of Health and Human Services and the Secretary of Agriculture;
 - b. be accompanied by nutrient calculations using computer software based on *Bowes and Church's Food Values of Portions Commonly Used*, *USDA Handbook Number 8*, or other appropriate nutrient data base;
 - c. provide each participating individual a minimum of one-third (1/3) of the daily recommended dietary allowances (DRI) for older individuals as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences;
 - d. supply 1/3 of the DRI for the nine (9) indicator nutrients (protein, calcium, iron, vitamin A, vitamin B-12, vitamin C, fiber, sodium, and fat);

- e. provide a minimum of seven hundred (700) kilocalories per meal;
 - f. be planned using the highest listed value in the OAA/DRI Comparison Tables, developed by the National Policy and Resource Center on Nutrition and Aging, under "OAA Standards-1/3 RDA/AI" for the indicator nutrients;
 - g. be reviewed and certified by the AAAs Dietician/Nutritionist for compliance with nutrient planning standards at least four weeks prior to use;
 - h. be posted in a conspicuous location in each congregate meal site, as well as each preparation area, with serving dates indicated;
 - i. be adhered to, subject to seasonal availability of food items as well as availability of USDA donated food;
 - j. be designed to utilize fresh fruits and vegetables when they are in season; and
 - k. be kept on file for at least one year with any changes noted in writing at the provider level.
2. Service providers shall use the following menu pattern:
- a. Meat or Meat Alternate Group.
A serving shall consist of 3 ounces of cooked, edible meat, fish or fowl; eggs; or cheese. Meat alternates such as cooked dried beans are encouraged in order to increase fiber and lower fat content of meals. (One-fourth cup of cooked beans or peas is equivalent to 1 ounce of the meat requirement.)
 - b. Vegetable and Fruit Group.
Two 1/2 cup servings shall be provided. This shall include all vegetable juices, all fruits, and all full-strength fruit juices. Fruit used as a dessert should not be counted toward the suggested two servings of vegetables and fruits. A minimum of four high fiber selections per week shall be provided, for example: fruits and vegetables, peas, beans, tossed salads, etc.
 - c. Bread or Bread Alternate Group.
One serving shall be provided of enriched or whole-grain bread, biscuits, muffins, rolls, sandwich buns, cornbread, or other hot breads. Bread alternates may include enriched or whole-grain cereals or cereal products, such as spaghetti, macaroni, rice, dumplings, pancakes, and waffles.
 - d. Dessert Group.
One 1/2 cup serving shall be provided. All fruit, full strength fruit juices, and simple desserts, such as puddings, gelatin desserts, ice cream, ice milk, and sherbet; cake, pie, cookies, and similar foods, are also included.
 - e. Milk Group.
One-half pint of 2 percent, 1 percent or 1/2 percent milk shall be provided. Coffee, tea, decaffeinated beverages, soft drinks and fruit flavored drinks may be served but cannot be used to substitute for the milk requirement.
3. Vitamins and/or mineral supplements shall not be provided with nutrition services funds.
- R. Use of Nutrition Contributions.

Nutrition services providers shall use all contributions to increase the number of meals served by the provider, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services

§1225. Legal Assistance Program

A. Purpose

The purpose of Legal Assistance is to assist older individuals in securing their rights, benefits and entitlements. To the extent practicable, legal assistance provided under Title III must be in addition to any legal assistance already being provided to older persons in the planning and service area.

B. Definition

See Glossary.

C. Eligibility Requirements for Providers

1. An AAA must contract with a provider which is either:
 - a. an organization which receives funds under the Legal Services Corporation Act; or
 - b. an organization which has a legal services program or the capacity to develop one.
2. An AAA may award funds to the legal assistance provider(s) who most fully meets the following standards:
 - a. has staff with expertise in specific areas of law affecting older persons, such as public benefit, institutionalization and alternatives to institutionalization;
 - b. demonstrates the capacity to provide effective administrative and judicial representation in areas of law affecting older persons;
 - c. demonstrates the capacity to provide support to other efforts on behalf of the elderly, such as the Long-Term Care Ombudsman Program;
 - d. demonstrates the capacity to deliver legal assistance to institutionalized, isolated, or homebound individuals effectively;
 - e. demonstrates the capacity to provide legal assistance in the principal language spoken by clients in areas where a significant number of clients do not speak English as their principal language;
 - f. has offices and/or outreach sites which are convenient and accessible to older persons in the community or has the capacity to develop such sites;
 - g. demonstrates the capacity to provide legal assistance in a cost-effective manner; and
 - h. demonstrates the capacity to obtain other resources to provide legal assistance to older persons.

D. Provider Objectives

1. to provide legal assistance to eligible participants;

2. to make efforts to involve the private bar in legal assistance provided under Title III, including groups within the private bar which furnish legal assistance to older persons on a pro bono or reduced fee basis;
 3. if not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Service Corporation projects in the Planning and Service Area in order to concentrate the use of funds provided under Title III on individuals with the greatest social or economic need. In carrying out this requirement, legal assistance providers may not use a means test or require older persons to apply first for services through a Legal Services Corporation project; and
 4. to adopt a procedure approved by the AAA for affording public access to the OAA and applicable federal regulations and state and local guidelines; the provider's written policies, procedures, guidelines; the names and addresses of the members of its governing body; and other materials that the provider determines should be disclosed.
- E. Restricted Provider Activities
1. Employees of legal assistance providers shall not engage in any of the following activities:
 - a. providing legal assistance in fee-generating cases;
 - b. pursuing any outside practice of law if the director of the provider determines that the practice is inconsistent with a staff attorney's full-time responsibilities;
 - c. attempting to affect the results of any election;
 - d. attempting to coerce an employee of any provider to contribute anything of value for a political purpose;
 - e. running for public office;
 - f. attempting to influence legislative or administrative bodies;
 - g. assisting in voter registration; or
 - h. participating in civil disturbances.
 2. Details concerning the restrictions in §1225.E.1. of this manual are included in 45 CFR 1321.71.
- F. Case Priorities
1. An AAA may set priorities for the categories of cases in order to concentrate on older persons in greatest economic or social need. Such cases should be related to income, health care, long term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.
 2. A legal assistance provider may not require an older person to disclose information about his income or resources as a condition for providing legal assistance.
 3. A legal assistance provider may ask about an older person's financial circumstances as a part of the process of providing legal advice, counseling, and representation, or for the purpose of identifying additional resources and benefits for which he/she may be eligible.
- G. Support for Research, Technical Assistance, and Related Efforts
- The GOEA shall, to the extent feasible, support and encourage legal research, technical assistance, training, information dissemination, and other activities designed to help

agencies, organizations, institutions, and private law firms that are providing, developing, or supporting pro bono or reduced fee legal assistance to older individuals.

§1227. Information and Assistance Service Requirements

- A. The purpose of information and assistance is to encourage and assist older individuals to use the facilities and services available to them.
- B. Definition of Information and Assistance
Information and Assistance Service—a service for older individuals that:
 - 1. provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;
 - 2. assesses the problems and capacities of the individuals;
 - 3. links the individuals to the opportunities and services that are available;
 - 4. to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate follow up procedures; and
 - 5. serves the entire community of older individuals, particularly older individuals with greatest social need, and older individuals with greatest economic need.
- C. Each AAA shall provide for information and assistance services in sufficient numbers to ensure that all older persons within the planning and service area covered by the area plan have reasonably convenient access to the service.
- D. The GOEA shall establish and maintain information and assistance services in sufficient numbers to assure that all older individuals in the state who are not furnished adequate information and assistance services under §1227.C. of this manual will have reasonably convenient access to such services.
- E. Information and assistance services providers shall:
 - 1. maintain current information with respect to the opportunities and services available to older persons;
 - 2. develop current lists of older persons in need of services and opportunities;
 - 3. employ, where feasible, a specially trained staff to assess the needs and capacities of older individuals, to inform older persons of opportunities and services which are available, and assist older persons in taking advantage of opportunities and services; and
 - 4. develop and maintain records of its transactions for the purpose of:
 - a. measuring utilization and effectiveness of its efforts;
 - b. identifying gaps in the service structure; and
 - c. assisting in state and parish planning.
- F. Information and assistance service providers shall place particular emphasis on linking services available to older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction, and the caretakers of individuals with such disease or disorders.

- G. In areas in which a significant number of older persons do not speak English as their principal language, service providers shall provide information and assistance services in the language spoken by the older persons.

§1229. Office of the Long Term Care Ombudsman

- A. Purpose. The purpose of the Louisiana Office of the Long Term Care Ombudsman is to ensure that residents of long term care facilities receive the quality of life to which they are entitled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:2010.4 and OAA Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:35 (January 1985), LR 11:1078 (November 1985), LR 13:742 (December 1987), LR 15:379 (May 1989), LR 17:600 (June 1991), repromulgated LR 17:661 (July 1991), amended LR 18:267 (March 1992), LR 24:1928 (October 1998), LR 28:1018 (May 2002), LR 42: 1513 (September 2016).

- B. Definitions of *Long Term Care Facility*—

1. a skilled nursing facility (SNF), as defined in Section 1819.(a) of the Social Security Act;
2. a nursing facility as defined in Section 1919.(a) of the Social Security Act;
3. a nursing home as defined in La. R.S. 40:2009.2.(3);
4. any nursing home or adult residential care home licensed by the state or required to be licensed by the state under the terms of La. R.S. 40:2010.1.(2).

- C. Functions of the Office of the State Long Term Care Ombudsman (the Office)-The program through which the functions and duties of the Office are carried out, consisting of the State Long-Term Care Ombudsman (SLTCO), the Office headed by the SLTCO, and the representatives of the Office.

1. The Office shall investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to action, inaction, or decisions of providers or their representatives, of long-term care services, of public agencies, or of social services agencies, which may adversely affect the health, safety, welfare, or rights of such residents.
2. The Office shall coordinate with and promote the development of citizen organizations to participate in the Long-Term Care Ombudsman Program (LTCOP);
3. The Office shall develop and provide an annual report as set forth in Section 712.(h)(1) of the Older Americans Act (OAA).
 - a. Such report shall:
 - i. Describe the activities carried out by the Office in the year for which the report is prepared;
 - ii. Contain analysis of ombudsman program data;

- iii. Describe evaluation of the problems experienced by, and the complaints made by or on behalf of, residents;
 - iv. Contain policy, regulatory, and/or legislative recommendations for improving quality of the care and life of the residents; protecting the health, safety, welfare, and rights of the residents; and resolving resident complaints and identified problems or barriers;
 - v. Contain analysis of the success of the ombudsman program, including success in providing services to residents of, assisted living, board and care facilities and other similar adult care facilities; and
 - vi. Describe barriers that prevent the optimal operation of the ombudsman program.
- b. The SLTCO shall make such report available to the public and submit it to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities.
4. The Office shall have sufficient authority to carry out its responsibility to analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services and to the health, safety, welfare, and rights of residents, and to recommend any changes in such laws, regulations, and policies deemed by the Office to be appropriate.
 5. The Office shall be excluded from state lobbying prohibitions to the extent that such requirements are inconsistent with Section 712. of the OAA. Therefore, nothing in this section shall prohibit the SLTCO or the Governor's Office of Elderly Affairs (GOEA) from establishing policies which promote consultation regarding the determinations of the Office related to recommended changes in laws, regulations, and policies. However, such a policy shall not require a right to review or pre-approve positions or communications of the Office.
 6. In carrying out systems advocacy efforts of the Office on behalf of long-term care facility residents and pursuant to the receipt of grant funds under the OAA, the provision of information, recommendations of changes of laws to legislators, and recommendations of changes of regulations and policies to government agencies by the Office do not constitute lobbying activities as defined by 45 CFR 93.
 7. The Office shall represent the interests of residents before governmental agencies, assure that individual residents have access to, and pursue (as the SLTCO determines as necessary and consistent with resident interests) administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents.

8. The Office shall provide information to public agencies, legislators, the general public, the media and others, as deemed necessary and feasible by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities; for example: sending informational letters to state representatives to request support of policies regarding the problems and concerns of elder population residing in long-term care facilities and signing state petitions in support of concerns and problems relating to elder population in long-term care facilities as deemed appropriate by SLTCO.
9. The Office shall provide training for the Office staff, including volunteers and other representatives of the Office in:
 - a. federal, state, and local laws, regulations, and policies with respect to long-term care facilities in the state;
 - b. investigative techniques; and
 - c. such other matters as the Office deems appropriate;
10. The Office shall coordinate ombudsman services with the protection and advocacy systems for individuals with disabilities established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.), under the Protection and Advocacy of Mentally Ill Individuals Act of 1986 (42 U.S.C.10801 et seq.); and under the Protection and Advocacy of Individual Rights (29 U.S.C. 794(e)); Such services are provided through an inter-agency agreement (contracted services are implemented through GOEA contracted services agreement).
11. The Office shall include any area or local ombudsman entity designated by the SLTCO;
12. The Office shall coordinate services with state and local law enforcement agencies and courts of competent jurisdiction (State Legal Service Developer and Legal Assistance Programs Guardianship and Advocacy Center: Ombudsman Legal Assistance Program(OLAP); Attorney General's Office (Victims Assistance) APS/EPS Agency). Such services are provided through an inter-agency agreement and contracted services are implemented through GOEA contracted services agreement.
13. The Office shall establish policies and procedures, in consultation with the GOEA, and local ombudsman entities to carry out the ombudsman program in accordance with the OAA.
14. The SLTCO shall manage the files, records, and other information of the ombudsman program, whether in physical, electronic, or other formats, including information maintained by representatives of the Office and local ombudsman entities pertaining to the cases and activities of the ombudsman program. Such files, records, and other information are the property of the Office. Nothing in this provision shall prohibit a

representative of the Office or a local ombudsman entity from maintaining such information in accordance with ombudsman program requirements.

D. Program Structure

1. State Level

- a. The GOEA shall operate an Office of the State Long-Term Care Ombudsman program which shall be headed by the SLTCO who shall serve on a full-time basis. The SLTCO shall be responsible for providing leadership and management of the SLTCOP, and shall in consultation with the GOEA recommend established policies and procedures to carry out directly and/or through local ombudsman entities the activities as necessary to perform the functions and responsibilities as set forth in §1229.C. and §1229.D.2.c. of this manual; and shall not be responsible for leading, managing or performing the work of non-ombudsman services or programs except on a time-limited intermittent basis. The GOEA shall provide personnel supervision and management for the SLTCO and representatives of the Office who are employees of the GOEA. Such management shall include an assessment of whether the Office is performing its functions under the OAA. The GOEA may make reasonable requests of reports, including aggregated data regarding ombudsman program activities, to meet the requirements of this provision.
- b. The GOEA must not have personnel policies or practices which prohibit the SLTCO from performing the functions and responsibilities, as set forth in 45 CFR 1324.13 or the requirements of Section 712 of the OAA. Nothing in this provision shall prohibit the GOEA from requiring that the SLTCO, or other employees or volunteers of the Office, adhere to the personnel policies and procedures of the entity which are otherwise lawful.
- c. The SLTCO shall be able to independently make determinations and establish positions of the Office without necessarily representing the determinations or positions of the GOEA, regarding:
 - i. disclosure of information maintained by the SLTCOP within the limitations set forth in Section 712(d) of the OAA;
 - ii. recommendations to changes in Federal, State and local laws, regulations, policies and actions pertaining to the health, safety, welfare, and rights of residents; and
 - iii. provisions of information to public and private agencies, legislators, the media, and other persons, regarding the problems and concerns of residents and recommendations related to the problems and concerns.
- d. Other staff may be added, as necessary, to implement the program. Specific program functions may be contracted
- e. The GOEA and SLTCO consider both the organizational and individual conflicts of interest that may impact the effectiveness and credibility of the work of the Office. In

- doing so, both the GOEA and SLTCO shall be responsible for identifying actual and potential conflicts and, where a conflict has been identified, to remove or remedy such conflict as set forth in 45 CFR 1324.2 and Section 712(f) of the OAA.
- f. The Office and its representatives shall be free from any conflicts of interest which might compromise the program's efforts to investigate impartially and resolve complaints. Listed below are procedures to avoid internal conflicts of interest but are not limited to the following:
- i. Identification of the conflict as in relations to persons seeking certification as an ombudsman: The provider agency shall screen all persons seeking certification as Long-Term Care Ombudsman (LTCO) staff or volunteers to identify any actual or potential individual conflicts of interest. Upon request by the SLTCO, the provider agency shall submit evidence of such screen to the SLTCO. The SLTCO may periodically request the provider agency to perform a conflict of interest screen of currently certified LTCO staff or volunteers.
 - ii. To determine whether LTCO staff or volunteer's participation in community groups, professional associations, or other activities constitutes a conflict of interest, the following questions shall be considered:
 - a) Will the LTCOP benefit from the LTCO staff or volunteer's involvement in this activity?
 - b) Will the LTCO represent and assert the views of long-term care residents in this activity?
 - c) Will the role of the LTCO staff or volunteer in the activity benefit residents?
 - d) How will participating in the activity affect the public perception and the residents' perspective of the LTCOP?
 - e) Will the LTCO staff or volunteer be put in a position of participating in a decision about a resident without the resident's involvement or permission?
 - g. Ombudsman shall have no financial interests or relatives living or employed in a nursing facility in which they serve. Representatives of the Office shall be responsible for maintaining vigilance for conflicts of interest within the local entity and shall notify the SLTCO when conflicts are suspected and work with the SLTCO to prevent or eliminate such conflicts when they arise. Failure of a LTCO, an agency hosting a local entity, or administrative agency to identify and disclose a conflict of interest to the SLTCO or inability to adequately remove or remedy a conflict shall constitute grounds for refusal, suspension or removal of designation of the local ombudsman entity by the SLTCO. Examples for Individual/ Organizational Conflicts of Interest include, but are not limited to the following:

- i. Employment of an individual by or participation in the management a member of his/her immediate family within the previous year by a long-term care facility in the service area or by the owner or operator of any long-term care facility in the service area;
- ii. Participation in the management of a long-term care facility by an individual or a member of his/her immediate family;
- iii. 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 an individual or a member of his/her immediate family;
- iv. Direct involvement in the licensing or certification of a long-term care facility or provision of a long-term care service by an individual or a member of his/her immediate family;
- v. Receipt of remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility by an individual or a member of his/her immediate family;
- vi. Accepting any gifts or gratuities from a long-term care facility or resident or resident representative; (**NOTE:** A LTCO shall compensate a facility for food provided by the facility except sample portions of food tested as part of an investigative process)
- vii. Accepting money or any other consideration from anyone other than the provider agency or other entity designated by the Office of the SLTCO for the performance of an act in regular course of a LTCO's duties;
- viii. Provision of services with conflicting responsibilities while serving as a LTCO, such as adult protective services; discharge planning; serving as guardian, agent under power of attorney or other surrogate decision-maker for a long-term care resident in the service area; pre-admission screening or case management for long-term care residents; or
- ix. Participating in activities which:
 - a) negatively impact the ability of the LTCO to serve residents, or
 - b) is likely to create a perception that the LTCO's primary interest is other than as an advocate for the resident or resident representative.
- x. Organizational Conflicts of Interest include, but are not limited to, placement of the Office, or requiring that a SLTCO or representative of the Office perform conflicting activities, in an organization that:
 - a) Is responsible for or has direct involvement in the licensing, surveying, or certifying of long-term care facilities or long-term services;

- b) Is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities;
 - c) Has any ownership or investment interest (represented by equity, debt, or other financial relationship) in, or receives grants or donations from, a long-term care facility;
 - d) Has governing board members with any ownership, investment or employment interest in long-term care facility;
 - e) Provides long-term care to residents of long-term care facilities, including provision of personnel for long-term care facilities or the operation of programs which control access to or services for long-term care facilities;
 - f) Provides long-term care coordination or case management for residents of long-term care facilities;
 - g) Sets reimbursement rates for long-term care facilities;
 - h) Provides adult protective services;
 - i) Is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities;
 - j) Conducts preadmission screening for long-term care facility placements;
 - k) Make decisions regarding admission or discharge of individuals to or from long-term care facilities; or
 - l) Provides guardianship, conservatorship or other fiduciary or surrogate decision-making services for residents of long-term care facilities.
- h. The SLTCO shall determine the use of the fiscal resources appropriated or otherwise available for the operation of the Office. Where local Ombudsman entities are designated, the SLTCO shall approve the allocations of federal and state funds provided to such entities, subject to applicable Federal and State laws and policies. The SLTCO shall determine that program budgets and expenditures of the Office and local Ombudsman entities are consistent with laws, policies and procedures governing the LTCOP.
- i. The GOEA contracts with the OLAP for the services of a full-time attorney to provide advice and consultation to ombudsman in resolving resident's concerns and to represent residents in administrative hearings as needed for the ombudsman program to protect the health, safety, welfare, and rights of residents.
- i. The GOEA shall ensure that:

- a) Legal counsel for the LTCOP is adequate, available, has competencies relevant to the legal needs of the program and of residents, and is without conflict of interest (as defined by the State ethical standards governing the legal profession), to:
 - (i) Provide consultation and representation as needed for the LTCOP to protect the health, safety, welfare, and rights of residents; and
 - (ii) Provide consultation and/or representation as needed to assist the SLTCO and representatives of the Office in the performance of their official functions, responsibilities, and duties, including, but not limited to, complaint resolution and systems advocacy;
- b) The SLTCO and representatives of the Office shall assist residents in seeking administrative, legal, and other appropriate remedies. In so doing, the SLTCO shall coordinate with the legal services developer, legal services providers, and victim assistance services to promote the availability of legal counsel to residents; and
- c) Legal representation, arranged by or with the approval of the SLTCO, is provided to the LTCO or any representative of the Office against whom suit or other legal action is brought or threatened to be brought regarding the performance of the official duties.
 - ii. Such legal counsel may be provided by one or more entities, depending on the nature of the competencies and services needed and as necessary to avoid conflicts of interest (as defined by the State ethical standards governing the legal profession). However, at a minimum, the Office shall have access to an attorney knowledgeable about the Federal and State laws protecting the rights of residents and governing long-term care facilities.
 - iii. Legal representation of the ombudsman program by the SLTCO or representative of the Office who is a licensed attorney shall not by itself constitute adequate legal counsel.
 - iv. The communications between the SLTCO and representatives of the Office and legal counsel are subject to attorney-client privilege.
- j. The following steps shall be taken where a conflict of interest can be sufficiently remedied:
 - i. Individual Conflict of Interest-A written remedial plan shall be developed and submitted to the SLTCO:
 - a) before an applicant applying for a position as a LTCO is hired;
 - b) before action is taken on behalf of the LTCOP on an applicant for certification as a LTCO volunteer; or

- c) within thirty (30) calendar days of the identification of a conflict of interest of a LTCO staff or volunteer.
- ii. Organizational Conflict of Interest
 - a) A written remedial plan shall be developed by the organization within thirty (30) calendar days of identification of the conflict of interest and submitted to the SLTCO.
 - b) The remedial plan must identify the conflict of interest and provide assurances which shall minimize to the greatest extent possible the negative impact of the conflict on the LTCOP. Examples of such assurances shall include:
 - (i) the LTCOP will investigate complaints in an unbiased manner and independently determine actions to be taken in their resolution;
 - (ii) no agency employee or governing board member with a conflict of interest will be involved with or influence any decision to hire or terminate the employment of a LTCO;
 - (iii) The governing board members of the provider agency who have a conflict of interest must:
 - 1) disclose the conflict of interest to the governing board and to the SLTCO;
 - 2) not be involved with LTCO activities concerning the entity which is the source of the conflict; and
 - 3) abstain from voting on issues related to the operation of the LTCOP.
 - (iv) The agency's policies and procedures adequately set forth procedures to remedy conflicts of interest and ensure that the LTCOP can fulfill their duties without interference.
 - iii. The SLTCO shall determine whether appropriate actions may be taken to sufficiently remedy the conflict. A conflict can be sufficiently remedied only where the existence of the conflict does not interfere with any duties of the LTCOP and where the conflict is not likely to alter the perception of the LTCOP as an independent advocate for residents.
 - iv. The remedial plan must be mutually agreed upon and signed by the agency in which the conflict exists and the SLTCO. If either party cannot agree to the plan, the conflict has not been sufficiently remedied.
 - v. Where a failure to remedy a conflict of interest have been identified the following steps shall be taken where the conflict can be sufficiently remedied:
 - a) refusal to designate or designation of the LTCOP or the LTCO;
 - b) withdrawal of the designation of the LTCO;

- c) if GOEA is unable to adequately remove or remedy a conflict, it shall carry out the ombudsman program by contract or other arrangement with a public agency or nonprofit private organization, pursuant to Section 712(a)(4) of the OAA.
2. Sub-state Level
- a. Designation of Local Ombudsman Entities
 - i. The SLTCO shall designate local ombudsman entities public or private nonprofit agencies or organizations which have the capacity to perform the duties set forth in §1229.D.2.c of this manual.
 - ii. The SLTCO shall not designate any agency or organization as a local ombudsman entity where such designation would create a conflict of interest.
 - iii. The GOEA shall contract with agencies or organizations, such as an Area Agency on Aging, designated and approved by the SLTCO to operate the SLTCOP at the sub-state level.
 - iv. The agency in which a local ombudsman entity is organizationally located shall be responsible for the personnel management, but not the programmatic oversight, of representatives, including employee and volunteer representatives of the Office.
 - v. The agency in which a local ombudsman entity is organizationally located shall not have personnel policies or practices which prohibit the representatives of the Office from performing the duties, or from adhering to the access, confidentiality and disclosure requirements of Section 712 of the OAA, as implemented through policy and procedures of the Office.
 - vi. Nothing in this provision shall prohibit the host agency from requiring that the representatives of the Office adhere to the personnel policies and procedures of the agency which are otherwise lawful.
 - vii. The contract between GOEA and the local ombudsman entity shall specify the service area covered by the local ombudsman entity and the responsibilities of each party. It shall contain assurances regarding the performance of the local ombudsman entity and provisions for termination of designation.
 - viii. A local ombudsman entity which cannot meet all designation requirements or which is experiencing substantial problems may be granted a provisional designation, provided that the local ombudsman entity has provided a plan for corrective action acceptable to the SLTCO, including a timetable for meeting requirements.
 - ix. Designations of local ombudsman entities shall be renewed annually. If a designated local ombudsman entity wishes to not be considered for renewal, it shall provide written notice to the SLTCO at least 90 days prior to the end of the contract year.

- x. The SLTCO may de-designate, suspend a local ombudsman entity or terminate a designation for cause. The terms and conditions for this procedure shall be included in the contract with the local ombudsman entity.
- xi. The SLTCO shall review and approve plans or contracts governing local Ombudsman entity operations, in coordination with the GOEA; and monitor, on a regular basis, the SLTCOP performance of local ombudsman entities.
- b. Any representative as defined in La. R.S. 40:2010.1 of an entity designated by the SLTCO as a local ombudsman entity (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this manual.
- c. At a minimum, each local ombudsman entity shall:
 - i. employ or contract with a certified ombudsman who shall be paid to serve as an ombudsman coordinator for all facilities within the service area;
 - ii. submit for approval to the SLTCO a written plan of visitation which provides for regular visitation to each facility in the service area by program personnel.
 - a) Every facility must be visited by a certified ombudsman at least once per month;
 - b) except that skilled nursing facilities located in hospitals and rehabilitations centers not otherwise licensed as long-term care facilities must be visited a minimum of once every six months; and
 - c) adult residential care homes must be visited at least quarterly unless conditions warrant more frequent visitation. The plan of visitation shall be incorporated into the contract with GOEA;
 - iii. investigate, record, and resolve problems and complaints;
 - iv. record and report information on complaints and observed problems;
 - v. advertise the existence and function of the designated local entity and the Office; and
 - vi. advise the public about, or arrange for the availability of, current state, local, and federal inspection reports, statements of deficiency, and plans for correction for individual long-term care facilities in the service area.
- d. The amount of funds to be allocated for each designated local ombudsman entity shall be determined by the GOEA. The SLTCO shall determine the use of the fiscal resources appropriated or otherwise available for the operation of the Office. Where local ombudsman entities are designated, the SLTCO shall approve the allocations of Federal and State funds provided to such entities, subject to applicable Federal and State laws and policies. The SLTCO shall determine the program budgets and expenditures of the Office and local ombudsman entities are consistent with laws, policies, and procedures governing the LTCOP.

- e. Program personnel at the designated local level are:
 - i. ombudsman coordinator;
 - ii. ombudsman; and
 - iii. long term care visitor.
- f. No person shall use the title *Ombudsman* or *Ombudsman Coordinator*, or investigate any complaint filed with the Office unless the individual has completed and maintained certification.
- g. No person shall use the title *Long Term Care Visitor* unless they have completed orientation training and fulfills the responsibilities in §1229.E.4.b. of this manual.

E. Personnel Qualifications and Responsibilities

1. State Long Term Care Ombudsman

- a. Qualifications. The SLTCO shall fulfill the State Civil Service position requirements for long term care ombudsman.
- b. Responsibilities. The duties of the SLTCO shall be those set forth in §1229.C. of this manual.
- c. To promote, provide technical support for the development of, and provide ongoing support as requested by resident and family councils to protect the well-being and rights of the residents

2. Ombudsman Coordinator

a. Qualifications

- i. The ombudsman coordinator:
 - a) must have met all qualifications of an ombudsman;
 - b) must have successfully completed one year of service as an ombudsman;
 - c) must have completed the coordinator training session(s) conducted by the SLTCO or his/her designee within three months of accepting the position; and
 - d) must possess administrative, supervisory, and public relations skills.
- ii. College credit may be substituted for the service requirement at the discretion of the SLTCO.

b. Responsibilities—

- i. to establish a focal point for receiving and processing complaints;

- ii. to recruit, train, and supervise ombudsmen and long-term care visitors. This shall include meeting with all ombudsmen and long-term care visitors at least once a quarter and visiting with each ombudsman in his assigned facility at least once a year;
- iii. to explain the program to the community, including but not limited to long term care facilities;
- iv. to visit in each long-term care facility within the service area at least once a year;
- v. to ensure that all personnel within the designated local entity adhere to the policies of the office and the designated entity;
- vi. to coordinate the program with agencies within the Planning and Service Areas (PSA) serving long term care facilities;
- vii. to encourage residents in self-advocacy;
- viii. to promote the development of citizen organizations to participate in the ombudsman program;
- ix. to attend ombudsman training. At least once a year this will include a meeting of ombudsman coordinators with the SLTCO;
- x. to maintain ombudsman certification;
- xi. to report to the Office, as required by the GOEA;
- xii. to refer problems that are not resolved to the SLTCO;
- xiii. to introduce new trainees, ombudsmen, and long-term care visitors to administrators of assigned;
- xiv. to notify SLTCO when conflicts of interest are suspected and should work with the SLTCO to prevent or eliminate such conflicts of interest when they arise;
- xv. to submit all signed Confidentiality Agreement and Conflict of Interest Agreement forms to the SLTCO on an annual basis (July 1st of the current fiscal year);
- xvi. to determine the perspective of the resident (or resident representative, where applicable) of the complaint, advise the resident of resident's rights; work with the resident (or resident representative, where applicable) to develop a plan of action for the resolution of the complaint, and encourage residents in self-advocacy;
- xvii. to ensure that residents, responsible parties, and concerned members of the public know how to contact the SLTCO and the ombudsman assigned to the facilities;
- xviii. to promote community involvement with long term care facilities;
- xix. to adhere to the policies and procedures of the Office;
- xx. to carry out other activities that the SLTCO determines to be appropriate;

- xxi. to promote, provide technical support for the development of, and provide ongoing support as requested by resident and family councils to protect the well-being and rights;
 - xxii. to investigate and resolve complaints to the satisfaction of the resident;
 - xxiii. represent the interests of residents before government agencies and assure that individual residents have access to, and pursue (as the resident interest) administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
 - xxiv. review and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and
 - xxv. facilitate the ability of the public to comment on the laws, regulations, policies, and actions
3. Ombudsman
- a. Qualifications
 - i. An ombudsman must possess the following qualifications:
 - a) graduation from high school or equivalency;
 - b) two years of experience in working with people;
 - c) recommendation by his designated ombudsman entity; and
 - d) successful completion of ombudsman certification training program.
 - ii. Comparable experience may be substituted for the educational requirement at the discretion of the SLTCO.
 - b. Responsibilities—
 - i. to work through the ombudsman program;
 - ii. to devote at least two hours per week fulfilling the responsibilities listed below in assigned long term care facilities;
 - iii. to serve as a liaison between residents, their families, and facility personnel and facility administration;
 - iv. to refer problems that are not resolved to the ombudsman coordinator;
 - v. to record visits and complaints on the appropriate reporting forms;
 - vi. to meet with the ombudsman coordinator at least once a quarter;
 - vii. to meet with long term care visitors assigned to the facility(ies) at least once a month;

- viii. to maintain ombudsman certification;
 - ix. see §1229.E.2.b.xvi.-xxv. of this manual for additional ombudsman responsibilities.
4. Long Term Care Visitors
- a. Qualifications—
 - i. experience in working with people;
 - ii. ability to be observant;
 - iii. ability to be impartial;
 - iv. completion of the orientation training sponsored by his local designated ombudsman entity.
 - v. completion of a minimum of six (6) months to one year of service with the SLTCOP prior to beginning certification process as set forth in §1229.F. in this manual. The number of months required for the long-term care visitor to begin the certification process shall be determined by the SLTCO.
 - b. Responsibilities—
 - i. to work through the designated ombudsman entity;
 - ii. to visit residents in each assigned facility in accordance with the plan of visitation;
 - iii. to assist the ombudsman coordinator in publicizing the existence of the ombudsman program and assuring that residents, responsible parties, and concerned members of the public know how to contact the SLTCO and the ombudsman assigned to the facilities;
 - iv. to observe the care in long term care facilities;
 - v. to meet regularly with the ombudsman or ombudsman coordinator;
 - vi. to report monthly to the ombudsman assigned to the long-term care facility on the status of the residents in the facility and refer problems to the ombudsman or ombudsman coordinator;
 - vii. to attend at least six hours of training a year on topics related to nursing homes, aging, managed care and the ombudsman program; and
 - viii. to adhere to the policies and procedures of the office.

F. Ombudsman Certification

1. *Certification*—the mechanism whereby the Office delegates the functions and responsibilities stated in La. R.S. 40:2010.1. to 2010.5. to local program representatives.

2. Certification Process

- a. Upon successful completion of the certification program, a trainee will become a certified ombudsman. The SLTCO shall notify the trainee, in writing, and shall issue an identification card. A copy of the letter shall be sent to the designated local ombudsman entity.
- b. The ombudsman shall be assigned to a long-term care facility(ies) by the SLTCO after consultation with the ombudsman and the ombudsman coordinator. The administrator of the long-term care facility where the ombudsman is assigned shall be so informed by the SLTCO.
- c. Individuals certified by nursing home ombudsman programs in other states can request the SLTCO to consider their previous experience. The individual must submit a letter from the other states nursing home ombudsman program which describes the training program and verifies that the individual left the program in good standing. The individual will need to attend certification training on these topics:
 - i. regulatory system;
 - ii. rights of nursing home residents;
 - iii. Medicaid;
 - iv. complaint investigation and resolution; and
 - v. Ombudsman policies and procedures.
- d. To complete Louisiana's certification requirements, the individual must pass the examination.

3. Training

- a. Individuals shall be certified as ombudsmen upon successful completion of the ombudsman certification training program. The training program consists of four components:
 - i. an orientation program;
 - ii. 26-hour training program;
 - iii. an examination; and
 - iv. an internship in a long-term care facility.
- b. The SLTCO or his designee shall conduct the certification training. Trainees must meet the minimum personnel qualifications specified in §1229.E.3.a. of this manual.
 - i. Required training includes, but is not limited to the following topics:
 - a) long term care ombudsman program;

- b) the process of aging;
 - c) the institutionalized elderly;
 - d) nursing homes;
 - e) board and care homes;
 - f) state and federal regulatory systems;
 - g) rights of residents;
 - h) community resources;
 - i) Medicaid and Medicare;
 - j) complaint resolution;
 - k) ombudsman policies and procedures;
 - l) investigative techniques; and
 - m) managed care.
- c. Certification must be renewed annually. Renewal is based on successful completion of at least 15 contact hours of in-service training each year and on adherence to ombudsman policies and procedures. At least six hours of this training must be sponsored by the Office. The remainder may be earned by attending any relevant training, subject to the conditions described below. If requirements for the current year have been met, hours earned during the final quarter of a calendar year may be carried over to the following year.
- d. Training programs not sponsored by the Office will be eligible for in-service credit provided that:
- i. the topic is related to ombudsman work;
 - ii. the course or training is approved, in advance, by the SLTCO; and
 - iii. the course or training must be at least one hour in length.
- e. Requests for approval must include:
- i. brief description of training;
 - ii. who is conducting or sponsoring the training;
 - iii. when and where it is being held; and
 - iv. who the trainers/speaker are (if available).
- f. The ombudsmen must provide evidence of attendance at any outside training and may be required to submit a written report of the training.

- g. Recertification will be done on a calendar year basis. It is the responsibility of each designated local ombudsman entity to monitor at least the following activities to assure eligibility for recertification:
 - i. number of visits per month;
 - ii. number of hours per month;
 - iii. number of cases handled per month; and
 - iv. number of in-service hours completed per quarter.
 - h. Newly certified ombudsmen shall not be required to earn in-service hours during the first year or partial year following their initial certification. Instead, they shall be required to attend training sessions conducted by the ombudsman coordinator on the following topics:
 - i. problem resolution;
 - ii. resident rights; and
 - iii. assertiveness/communication;
 - i. Training shall be conducted in accordance with guidelines and materials prepared by the SLTCO. This training must be completed within the first six months following certification. As of the beginning of the calendar year following initial certification, regular in-service training requirements will apply.
4. Examination
- a. Written and/or oral examination will be administered to assess the trainee's knowledge of the long-term care system, of long term care residents, and of the problem-solving process. The examination will be evaluated on a "pass/conditional pass/fail" basis.
 - b. If a trainee receives a "conditional pass," the SLTCO, in conjunction with the trainee, will identify additional activities or training which must be successfully completed to obtain a "pass" rating.
 - c. If a trainee fails the examination, the SLTCO, in conjunction with the trainee, will identify additional training and activities to prepare the trainee for successful completion of the next written examination.
 - d. Each trainee may take the examination no more than three (3) times, without repeating the classroom component of the training. All attempts must be made within one year of the completion of the classroom component of the training. The recommendation of the ombudsman coordinator and the permission of the SLTCO are required before a trainee can repeat the classroom component.
5. Internship

- a. Prerequisites. A passing score on the written examination must be attained prior to the internship. In conjunction with the training program, each trainee will be required to spend 12 hours visiting in a long-term care facility. Previous experience may not be substituted. The internship must extend over a minimum of three weeks and must be completed within two months of passing the certification examination.
 - b. Purpose—
 - i. to familiarize the trainee with a long-term care facility;
 - ii. to provide an opportunity for the trainee to develop and/or refine skills in relating to residents and facility staff; and
 - iii. to provide friendly visiting for residents.
 - c. Introduction. A prerequisite to visiting with the residents is an initial meeting with the facility administration. That meeting is to discuss the purpose of the internship and the facility's policies.
 - d. Evaluation. Two to four hours of the internship will be supervised by the SLTCO or his designee. Evaluation forms to assess the internship will be completed by the long-term care facility administrator and the SLTCO or his designee. The internship will be evaluated on a "pass/conditional pass/ fail" basis. If a trainee receives a "conditional pass," the SLTCO, in conjunction with trainee, will identify additional activities which must be successfully completed to attain a "pass" rating. The internship may be evaluated only twice.
6. Leave of Absence-Individuals who require extended leave should refer to the entity's leave policy for guidance. The entity's Director shall submit a written notification to the SLTCO with an explanation on how the services will be provided while the individual is on leave.
 7. Revocation. Certification may be revoked by the SLTCO if ombudsman policies and procedures are violated. An ombudsman shall receive written notification that certification is to be revoked 10 working days before revocation. The ombudsman may appeal the decision to the Director of the GOEA prior to the date of revocation. If certification is revoked, the appropriate long-term care facility administrator shall be informed, in writing, by the SLTCO.

G. Complaints

1. The ombudsman is responsible for receiving complaints relating to residents of long term care facilities and taking necessary action to investigate and resolve those complaints.
2. The ombudsman may receive complaints by phone or through written or in-person contact with complainant(s).

3. Each complaint case will be assigned a number and be documented on the complaint log sheet developed by the GOEA.
4. The ombudsman shall contact pertinent parties to the complaint either by phone, mail, or in person to gain details of the complaint. The investigation shall be initiated within five working days of receipt of the complaint to determine the validity of the complaint.
5. In the process of resolving complaints, the ombudsman shall encourage residents to resolve complaints themselves. If the ombudsman is asked to act on behalf of a resident, the ombudsman shall seek to resolve the problem within the long-term care facility by contacting the administrator or staff of the facility. If a referral to another agency is appropriate, the ombudsman shall make such a referral with the permission of the complainant. Referrals to agencies outside of the PSA will go through the SLTCO. Referrals to an office of a state agency within the PSA must be reported to the SLTCO within one working day of the referral. The ombudsman or representative of the Office shall follow up on referrals to other agencies. The resident or complainant shall be kept informed by the ombudsman of the status of the complaint and may choose to stop the investigation or resolution process at any time. Referrals to other agencies must comply with Section 712(d) of the OAA and 45 CFR 1324.11(e)(3).
6. In the instance of the resident who has a resident representative the SLTCO or representative of the Office shall determine the extent of the authority that has been granted to the resident representative under court order and may advise the resident representative where applicable of the residents' rights.
 - a. Communication of informed consent may be obtained in writing or communication may be obtained orally or visually including through auxiliary aids and services.
 - b. Such consent shall be documented by the SLTCO or a representative of the Office, and in accordance with the procedures of the Office.
7. When the source is the SLTCO or representative of the office, the SLTCO or representative must support and maximize resident participation in the process of resolving the complaint as follows:
 - a. The SLTCO or representative of the Office shall offer privacy to the resident so that information, hearing, investigation, and complaint resolution remains confidential.
 - b. The SLTCO or representative of the Office shall personally discuss the complaint with the resident.
 - i. Determine the perspective of the resident or resident representative of the complaint;
 - ii. Request the resident or resident representative to communicate informed consent to investigate the complaint;

- iii. Determine the wishes of the resident or resident representative with respect to resolution of the complaint, including whether the allegations are to be reported and, if so, whether the SLTCO or representative of the Office may disclose resident identifying information or other relevant information to the facility and/or appropriate agencies. Such report and disclosure shall be consistent with §1229.K.6. of this manual.
 - iv. Advise the resident and/or resident representative of the resident's rights;
 - v. Work with the resident and/or resident representative to develop a plan of action for resolution of the complaint;
 - vi. Investigate the complaint to determine whether the complaint can be verified; and
 - vii. Determine whether the complaint is resolved to the satisfaction of the resident or resident representative.
- c. Where the resident is unable to communicate informed consent, and has no resident representative, the SLTCO or representative of the Office shall:
- i. Take appropriate steps to investigate and work to resolve the complaint to protect the health, safety, and welfare and rights of the resident; and
 - ii. Determine whether the complaint was resolved to the satisfaction of the complainant.
8. The local LTCOP shall ensure access to ombudsman services and timely response to requests and complaints. Office coverage may include a certified ombudsman or designated person providing office-based telephone coverage, frequent checks of voicemail or use of mobile devices. A certified volunteer ombudsman may provide office coverage. Therefore, the following procedures shall be utilized to address complaints that require time sensitive responses.
- a. Initiate a response to a complaint within two business days or sooner when the circumstances appear urgent. A case with the resident as the complaint takes priority over other cases.
 - b. Initiation includes contact with the resident or complainant and other sources of investigation information; it does not require a facility visit within two business days.
 - c. Complaints initiated by a certified ombudsman are assumed to be initiated immediately while the certified ombudsman is on-site in a facility. There is no required period for final disposition of a case.
 - d. The local LTCOP does not serve as an emergency responder.

H. Access

1. Facility Access

- a. The SLTCO and representatives of the Office shall have immediate access to any resident of a long-term care facility, appropriate records, and the other pertinent information needed to perform all the functions, responsibilities, and duties of the Office. This procedure also includes access to the following
 - i. Access to enter all long-term care facilities at any time during facility's regular business hours or regular visiting hours, and at any other time when access may be required by the circumstances to be investigated.
 - ii. Access to the name and contact information of the resident representative, if any, where needed to perform the functions and duties set forth in 45 CFR 1324.13 and 45 CFR 1324.19.
 - b. The representative of the Office shall notify the administrator or the person in charge of his/her presence upon entry into the facility. The representative shall respect any resident's desire for privacy. The representative shall perform his/her duties in the manner least disruptive of patient care and activities.
 - c. Long-term care visitors shall notify the administrator, or the person in charge, of their presence upon entry into a long-term care facility. The long-term care visitor shall respect any resident's desire for privacy.
2. Records Access
- a. Records may be reviewed only with the written consent of the resident or the residents' legal representative. The ombudsman may review those portions of a resident's records which are relevant to resolving a specific problem. If a resident is unable to consent to such review and has no legal representative, the ombudsman shall have access to the resident's medical and social records.
 - b. Resident representative means any of the following:
 - i. An individual chosen by the resident to act on behalf of the resident to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications;
 - ii. A person authorized by the State or Federal Law (including but not limited to agents under power of attorney, representative payees, and other fiduciaries) to act on behalf of the resident to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications;
 - iii. Legal representative, as used in Section 712 of the OAA; or
 - iv. The court-appointed guardian or conservator of a resident.
 - c. The Ombudsman shall have access to review the medical, social, and other records relating to a resident, if:

- i. the resident or resident representative communicates informed consent to the access and the consent is given in writing, orally, visually, or through auxiliary aids and services and such consent is documented contemporaneously by a representative of the Office;
- ii. access is necessary to investigate a complaint, the resident representative refuses to consent to the access, a representative of the Office has reasonable cause to believe that the resident representative is not acting in the best interests of the resident, and the representative of the Office obtains the approval of the Ombudsman.
- d. The Ombudsman shall have access to the administrative records, policies, and documents of long-term care facilities if they are accessible to the residents or the public.
- e. Upon request, the Ombudsman shall have access to copies of all long-term care facilities' licensing and certification records maintained by the State.

Note: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, 45 CFR part 160 and 45 CFR part 164, subparts A and E, does not preclude release by covered entities of resident private health information or other resident identifying information to the LTCOP, including but not limited to residents' medical, social, or other records, a list of resident names and room numbers, or information collected during a State or Federal survey or inspection process.

I. Confidentiality

1. All investigatory files, complaints, responses to complaints, and all other information related to any complaint or investigation maintained by the LTCOP shall be considered confidential information, in accordance with La. R.S. 40:2010.5. Failure to maintain the confidentiality of the information can lead to the termination of the ombudsman contract with the designated entity and may result in an exposure to civil action for which the designated entity shall bear sole liability.
2. All information retained by or developed by any representative of the Office pertaining to complaints shall be considered confidential and all local entities' representatives shall be responsible for submitting a signed confidentiality agreement form on an annual basis to the SLTCO.
3. All complaint files maintained by the Office and any of its representatives shall be secured in a locked file cabinet.
4. The SLTCO shall be responsible for monitoring the files, records, and other information maintained by the SLTCOP. Such monitoring may be conducted by a designee of the SLTCO. Neither the SLTCO nor a designee shall disclose identifying information of any complainant or long-term care facility resident to individuals outside of the SLTCOP, except as otherwise specifically provided in 45 CFR 1324.11(e)(3). In monitoring the

LTCOP, access to files, minus the identity of any complainant or resident of a long-term care facility, shall be available only to the Director of GOEA and one other senior manager of GOEA designated by the Director of GOEA.

5. The confidentiality and disclosure procedures do not preclude the Ombudsman's use of otherwise confidential information in the files for preparation and disclosure of statistical, case study, and other data, provided the Ombudsman does not disclose the identity of persons otherwise protected.

J. Disclosure of Files, Records, and other Information

1. The SLTCO or representative of the Office may assist the resident or resident representative in contacting the appropriate long-term care facility administrator or designated representative to obtain contact information or to disclose information the resident or resident representative has given consent to release.
2. The SLTCO or representative of the Office shall not report suspected abuse, neglect, or exploitation of a resident unless the resident or resident representative has communicated consent to release the information.
3. If the SLTCO or representative of the Office personally witnesses the abuse, gross neglect, or exploitation of a resident, the SLTCO or representative of the Office shall obtain consent from the resident to disclose resident-identifying information to the appropriate agencies.
4. If the resident is unable to communicate informed consent and has no resident representative available to provide informed consent, the SLTCO or representative of the Office shall open a case as the complainant, follow the SLTCOP complaint resolution procedures, and shall refer the matter to the management of the facility in which the resident resides and/or to the appropriate agency or agencies for substantiation of abuse, gross neglect or exploitation in the following circumstances:
 - a. There is no evidence indicating that the resident would not wish a referral to be made; or
 - b. There is reasonable cause to believe that disclosure would be in the best interest of the resident. **Note:** The representative of the Office shall immediately notify the SLTCO for approval of any disclosure of resident-identifying information.
5. Referrals
 - a. Information regarding the resident's complaint may be provided to another agency to substantiate the facts for regulatory, protective services, law enforcement, or other purposes so long as the SLTCO or representative of the Office adheres to the disclosure requirements of Section 712(d) of the OAA and 45 CFR 1324.11(e)(3).

- b. The Office must assist the resident or resident representative in contacting the appropriate agency(ies) and/or disclosing the information the resident gave consent to release.
- c. The SLTCO or representative of the Office may refer a resident's complaint and disclose resident-identifying information to the appropriate agency(ies) for regulatory oversight; protective services; access to administrative, legal, or other remedies; and/or law enforcement action in the following circumstances:
 - i. the resident is unable to communicate informed consent to the SLTCO or representative of the office;
 - ii. the resident has no resident representative;
 - iii. there is reasonable cause to believe that an action, inaction or decision may adversely affect the health, safety, welfare, or rights of the resident;
 - iv. there is no evidence indicating that the resident would not wish a referral to be made;
 - v. there is reasonable cause to believe that it is in the best interest of the resident to make a referral; and
 - vi. the representative of the Office obtains the approval of the SLTCO. The SLTCO's approval is required for situations found in 45 CFR 1324.19(b)(7).
- d. To protect the health, safety, welfare, or rights of the resident, the SLTCO shall communicate approval or disapproval for the release of the resident's information within 24-hours of the request to assure the representative of the Office can promptly act.

K. Complaints and Grievances

1. Definitions

Complaint—any allegation of wrongdoing or misconduct by an ombudsman.

Grievance—a formal complaint alleging misconduct.

Misconduct—any action by an ombudsman which is detrimental to the welfare of a resident or residents or which is directly in violation of the laws and regulations governing the ombudsman program, including Section 307 of the OAA, La. R.S.40:2010.1. et seq. and §1229. of this manual.

2. Complaints

- a. May be submitted orally or in writing.
- b. The Office shall act upon any complaint regarding the conduct of an ombudsman in carrying out his/her duties.
- c. Complaints against Ombudsmen:

- i. Should be directed to the local ombudsman coordinator.
 - ii. Upon receipt of a complaint:
 - a) the ombudsman coordinator shall notify the ombudsman and his/her immediate supervisor;
 - b) investigate to determine whether the complaint is valid;
 - c) advise the complainant and the ombudsman of the findings; and
 - d) take appropriate action to remedy the situation.
 - iii. If a complaint is found to be valid and appears to constitute misconduct, the ombudsman coordinator shall notify the SLTCO of the findings within five (5) working days of the completion of the investigation.
 - iv. If a coordinator fails to respond to or act upon a complaint within 30 days, the person filing the complaint may refer the complaint to the SLTCO
 - d. Complaints about an Ombudsman Coordinator
 - i. Should be directed to the SLTCO.
 - ii. Upon receipt of a complaint, the SLTCO shall:
 - a) notify the ombudsman coordinator and his/her immediate supervisor of the complaint;
 - b) investigate to determine whether the complaint is valid;
 - c) advise the following persons of the findings:
 - (i) the complainant;
 - (ii) the ombudsman coordinator, and
 - (iii) the director and/or other supervisory staff of the local designated ombudsman entity; and
 - d) take appropriate action to remedy the situation.
 - iii. If the SLTCO fails to respond to or act upon a complaint within 30 days, the person filing the complaint may refer the complaint to the director of the GOEA.
 - iv. The SLTCO may request the ombudsman coordinator's supervisor and/or director of the local designated entity to assist in the investigation of a complaint if his/her involvement does not violate confidentiality requirements.
3. Grievances
 - a. Must be submitted in writing.
 - b. Decisions rendered may be appealed.

- c. Grievances must:
 - i. specify the alleged misconduct and include, dates, times, locations, and witnesses;
 - ii. state relief sought; and
 - iii. be submitted within one year of the date of the alleged misconduct.
- d. Grievances against an Ombudsman
 - i. Must be submitted to the local ombudsman coordinator.
 - ii. Upon receipt of the grievance:
 - a) The ombudsman coordinator shall submit a copy of the grievance, the ombudsman named in the grievance, and his/her supervisor to the SLTCO;
 - b) request that the ombudsman submit a written response within 10 working days;
 - c) inform the ombudsman and the complainant of the date a decision shall be issued;
 - d) investigate the allegation stated in the grievance;
 - e) consider the relief sought by the complainant;
 - f) and issue a written decision.
 - iii. The ombudsman coordinator shall:
 - a) inform the SLTCO, the ombudsman, his/her immediate supervisor, and the complainant of the investigative findings and decision;
 - b) the actions, if any, that will be taken; and
 - c) the provisions for appealing the decision.
 - iv. If an ombudsman coordinator fails to respond to or act upon a grievance within 30 days, either the complainant or the person filing the grievance may refer the grievance to the SLTCO for appropriate action.
- e. Grievances against an Ombudsman Coordinator
 - i. Must be submitted to the SLTCO.
 - ii. Upon receipt of the grievance, the SLTCO shall:
 - a) submit a copy of the grievance to the ombudsman coordinator and his/her immediate supervisor;
 - b) request that the ombudsman coordinator submit a written response within 10 working days;
 - c) inform the ombudsman coordinator and the complainant of the date a decision shall be issued;

- d) investigate the allegation stated in the grievance;
 - e) consider the relief sought by the complainant; and
 - f) issue a written decision.
- iii. The SLTCO may request the director and/or other supervisory staff of the local designated ombudsman entity to assist in the investigation of a grievance if their involvement does not violate confidentiality.
- iv. The SLTCO shall:
- a) inform the ombudsman coordinator, his/her immediate supervisor, and the complainant of the findings and decision;
 - b) the actions, if any, that will be taken; and
 - c) the provisions for appealing the decision.
- v. If the SLTCO fails to respond to or act upon a grievance within 30 days, the complainant or the person named in the grievance may refer the grievance to the director of the GOEA for appropriate action.
4. Remedial Actions
- a. The ombudsman coordinator is authorized to take the following actions:
 - i. issue a written reprimand; and/or
 - ii. require attendance at or completion of supplementary or in-service training; or
 - iii. refer the grievance to the SLTCO with a recommendation for facility reassignment or revocation of certification.
 - b. The SLTCO may:
 - i. issue a written reprimand; and/or
 - ii. require attendance at or completion of supplementary or in-service training; or
 - iii. take any other appropriate remedial action.
 - c. In determining appropriate remedial action, the following factors, at a minimum, shall be considered:
 - i. the nature of the misconduct;
 - ii. the degree to which the misconduct caused harm to a resident or residents;
 - iii. the degree to which the misconduct damages the effectiveness of the ombudsman or the local designated entity;
 - iv. the ombudsman's previous record of service; and

- v. the legal limits of the SLTCO's or the local ombudsman coordinator's authority.
 - d. This policy in no way restricts the right of a designated local entity to take any personnel action it deems appropriate under its own internal personnel policies.
5. Grievance Appeals
- a. Decisions rendered by an ombudsman coordinator in response to a grievance may be appealed to the SLTCO by the person filing the grievance or the ombudsman named in the grievance. An appeal must be submitted, in writing, within 30 days of receipt of the written decision and must state the basis on which the appeal is requested.
 - b. Upon receipt of an appeal the SLTCO will:
 - i. review the written decision rendered by the ombudsman coordinator;
 - ii. investigate further, if necessary; and
 - iii. issue a written decision to confirm and support, modify, or repeal the ombudsman coordinator's decision.
6. Grievance Hearings
- a. Decisions rendered by the SLTCO in response to a grievance may be appealed to the director of the GOEA.
 - b. This appeal must be in the form of a request for a hearing as outlined in LAC 4:VII.1273.

§1231. Senior Community Service Employment Program

A. Purpose

The purpose of the Senior Community Service Employment Program is to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are 55 years or older and who have poor employment prospects, in order to foster individual economic self-sufficiency and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 501, 20 CFR Part 674 and 20 CFR Part 89.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 24:1766 (September 1998), LR 28:1018 (May 2002), LR 42:1510 (September 2016)

B. Program Administration

- 1. This program is funded by the U.S. Department of Labor. The GOEA administers the program in the southeastern portion of Louisiana through three sub-grantees. The balance of the state is served under the administration of four national contractors:

- a. Experience Works;
 - b. the National Council on Aging;
 - c. the National Association of Hispanic Elderly;
 - d. the American Association of Retired Persons; and
2. Slots are distributed by parish according to an equitable distribution formula. All organizations administering the Senior Community Service Employment Program are expected to comply with the distribution formula. The formula was developed by the sponsoring organizations and is reviewed annually by that group.

C. Definitions

See Glossary

D. Eligible Applicants for Subproject Status:

1. agencies of the state;
2. Parish Councils on Aging;
3. Area Agencies on Aging;
4. units of local government (other than political organizations);
5. federal establishments and agencies;
6. nonprofit organizations; and
7. Indian tribes.

E. Application Procedure

Organizations must submit an application in the form designated by the grantee to be considered for sub-grantee status.

F. Program Description

1. Enrollees are selected according to income guidelines, residence and age. Enrollment priorities shall be:
 - a. eligible individuals with greatest economic need;
 - b. eligible individuals age 55 and older; and
 - c. eligible individuals seeking re-enrollment.
2. Enrollees shall be offered a physical examination prior to participation in the program. Physical examinations are furnished at no cost to the enrollees and are offered only as a fringe benefit. When an enrollee objects to a physical examination, a written statement or waiver must be properly documented and signed.

3. As soon as possible after completion of enrollee's orientation and training, the sub-grantee shall assign the enrollee to useful part-time community service with a host agency. Sub-grantees shall continually work toward placing enrollees in unsubsidized employment, thereby creating additional opportunities for persons to enroll.
4. A community service employment enrollee should not exceed 1,300 hours, including paid hours for orientation and training during the 12-month period beginning with the date of enrollment.
5. Enrollees shall not be required to work more than 20 hours during one week. Shorter hours may be authorized by the sub-grantee by means of a written agreement with the enrollee.
6. Enrollees shall work normal business hours, be enrolled at a work site near their home, and have proper supervision.
7. Community service participation of an enrollee shall not result in the displacement of currently employed workers.

G. Monitoring of the Governor's Office of Elderly Affairs Sub-grantees

1. Sub-grantees funded through the GOEA shall submit monthly and/or quarterly program reports to the GOEA by the tenth working day of each month. Reports shall reflect current enrollment, placements, follow-ups and include a narrative description of activities conducted during the month.
2. Monthly financial reports shall be submitted by the sub-grantee in the form designated by the GOEA.
3. The GOEA shall conduct biennial assessments to ensure that its sub-grantees are performing in accordance with Senior Community Service Employment Program rules and regulations.

H. Project Termination

The grantee has the authority to terminate any of its contracts with a sub-grantee which is not operating in accordance with Senior Community Service Employment Program rules and regulations.

§1233. State Funded Senior Center Operation

A. Definitions

See Glossary

B. Mission of a Senior Center

The mission of a senior center is to promote the physical, emotional, and economic well-being of older adults and to promote their participation in all aspects of community life.

C. Participant Eligibility

All Louisiana residents who are at least 60 years old, and their spouses regardless of age, are eligible to receive services through state funded senior centers, senior center satellites, and meal sites. Participants must reside in the parish that the senior center, senior center satellite, or meal site is located in.

D. Minimum Requirements for State Funded Senior Center

1. A state funded senior center shall serve as a focal point for older adults in the community. It shall be a source of public information, community education, advocacy, and opportunities for older adults.
2. A state funded senior center shall be staffed by qualified personnel, paid and volunteer, capable of implementing its program.
3. Except where a waiver is granted by the GOEA, a state funded senior center must have or provide access to the following services:
 - a. Nutrition services-congregate meals and nutrition education;
 - b. Transportation- transportation to and from a senior's home to a senior center;
 - c. Information and assistance-completing the four steps:
 - i. Provide current information on opportunities and services within their community;
 - ii. Assess the problems of the individual;
 - iii. Link the individual to the opportunities and services available to them; and
 - iv. Follow-up to ensure they receive the services they needed.
 - d. Education and enrichment-classes and entertainment such as foreign language class, computer class, knitting, art, traveling, pottery, painting, book club, library trips; and
 - e. Wellness-Title IIIB wellness such as check-ups for or presentations on blood pressure, hearing loss, vision impairment, dental hygiene, etc., Disease Prevention and Health Promotion (formerly Title IIID wellness) evidence-based programs such as Matter of Balance, Tai Chi, Falls Prevention, etc., or a combination of both.
4. A state funded senior center shall provide a service (i.e. meal, education, wellness, etc.) for an average of at least 20 participants per day (or a lesser number that is determined to be cost effective and a waiver is granted by the GOEA).
5. A state funded senior center shall be large enough to house 20 participants at one time.

6. A state funded senior center shall operate at least four hours a day, five days a week (except in sites located in rural areas where such frequency is not feasible and a waiver is granted by the GOEA).
7. Waivers are granted by GOEA for the four-year Area Plan cycle. At the end of the Area Plan cycle the center will be considered a satellite center or meal site.

E. State Funded Senior Center Standards

1. A state funded senior center shall have written goals and objectives for each contract period. Goals and objectives must be based on the senior center mission and on the needs and interests of older adults in its community or service area. These statements shall be used to guide the character and direction of the senior center's operation and program.
2. A state funded senior center shall participate in cooperative community planning and establish service delivery arrangements with other community agencies and organizations.
3. A state funded senior center shall have clear administrative and personnel policies and procedures that contribute to the effective management of the senior center's operation.
4. A state funded senior center shall provide a broad range of group and individual activities and services to respond to the needs and interests of older adults in its community or service area.
5. A state funded senior center shall have appropriate and adequate arrangements to evaluate and report on its operation and program.
6. A state funded senior center shall practice sound fiscal planning and management, financial record keeping, and reporting as required by the GOEA.
7. A state funded senior center shall keep complete records required to plan, operate, and review its program.
8. A state funded senior center shall use facilities that promote effective program operation and that provides for the health, safety, and comfort of participants, staff and community.
9. A state funded senior center shall provide a written description of available services and activities for distribution to potential participants, such as a calendar of events or brochure.
10. A state funded senior center shall ensure the employees are trained in first-aid/CPR and blood-borne pathogens. There shall be a blood-borne pathogen kit available at each state funded senior center.

F. Distribution of State Funds for Senior Centers

1. Funds appropriated by the state legislature for the operation of senior centers will be included in the total budget of the GOEA and allocated to the designated recipients for

distribution. Designated recipients may request the GOEA to channel their state funds for senior centers through the AAA. Such requests must be accompanied by a resolution adopted by the recipient's governing body.

2. Each parish Council on Aging (COA) board of directors shall review and provide a written resolution recommending approval/disapproval of each request for state funding for the operation of new senior centers within their respective parishes. In reviewing requests for state funding, COAs shall follow the guidance issued by GOEA.
3. The GOEA shall provide an opportunity for a hearing and issue a written decision to any applicant for state senior center funding whose request is not recommended by the COA board of directors within their respective parishes. Hearings will be conducted in accordance with the GOEA hearing procedures. The GOEA shall be alert to conflicts of interest or noncompetitive practices that may restrict or eliminate competition among state funded senior center operators. The GOEA shall approve requests for funding whenever, in the judgment of the GOEA, the applicant demonstrates that a new facility is needed and that the proposed facility meets the criteria in Subsection G of this Section.
4. The GOEA shall incorporate all new senior centers recommended for state funding in the state agency's annual budget request. Funding must be appropriated by the state Legislature.

G. Criteria for State Funded Senior Center Providers

1. There shall be an agreement by the applicant agency to operate senior center programming on a nonprofit basis.
2. The applicant agency will have established capacity to provide senior center programming or similar services to the elderly population in an effective and efficient manner.
3. The location of said facility shall be in an area where a high concentration of elderly reside and are under-served with respect to this type program activity.
4. The applicant agency shall provide assurance of accessibility of the senior center facility to the elderly, including a plan for transportation to and from center activities and a plan for assuring accessibility of the facility to the handicapped.
5. There shall be capacity for securing additional community resources, whether cash or in kind, to increase program support and to assure ongoing program funding.
6. The applicant agency shall have the commitment to fostering active and meaningful involvement of the elderly population in both the senior center and the larger community, to include emphasis on elderly participation in center program planning, and the development of opportunities for volunteer service by older persons, both within and outside the center.

7. The applicant agency must demonstrate sound fiscal responsibility, incorporation of proper accounting methods, a reasonable budget for proposed operation of the agency, and assurances that required fiscal reporting will be conducted in a timely fashion, as prescribed by the GOEA.

H. Limitation on Use of Facilities

State funded senior centers may not be used for sectarian worship. This does not preclude counseling by ordained ministers or fellowship meetings for those who would voluntarily participate. No participant may be forced to participate in any religious activity or denied the benefit of services due to his personal beliefs.

I. Nepotism

1. Staff Relationships

State funded senior centers may not employ immediate family members in direct supervisory relationships. Immediate family is defined as follows: husband, wife, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law, grandfather, grandmother.

2. Purchases

- a. State funded senior centers may neither obligate nor expend funds administered by the GOEA for the purchase or rental of goods, space, or services if any of the following persons has a substantial interest in the purchase or rental unless it is documented that it is the cheapest or sole source, and the person who has an interest plays no part in making the decision:
 - i. a member of the governing body;
 - ii. the director or assistant director;
 - iii. any employee who has responsibilities for the procurement of goods, space or services; or
 - iv. anyone who is a member of the immediate family of a board member or employee referred to above.

J. Senior Center Program Income

State funded senior center program income shall be used in accordance with §1197. of this manual.

K. Monitoring and Assessment of State Funded Senior Centers

1. The GOEA shall monitor all state funded senior centers through on-site visits and/or review of program and financial reports.

2. The GOEA shall conduct assessments of all state funded senior centers within the four-year Area Plan period.
3. The GOEA Contractors shall conduct annual assessments of each state funded senior center, senior center satellite, and meal site operated by one of its Subcontractors. Reports of these assessments shall be submitted to the GOEA by June 30th annually in the form prescribed by the GOEA.
4. When a state senior center funds recipient elects to contract its state senior center funds through the designated AAA, the AAA shall conduct annual reviews of senior center activities and services. Reports of the annual reviews shall be submitted to GOEA in the form prescribed by GOEA.

§1245. Family Caregiver Support Program

- A. Purpose. The purpose of the Family Caregiver Support Program is to provide multifaceted systems of support services for family caregivers and for grandparents or older individuals who are relative caregivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as Amended in 2000, (P. L. 106-501); and 42 U.S.C. 6001.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 27:1518 (September 2001), amended LR 31:1331 (June 2005), LR 42: 1510 (September 2016)

B. Definitions

See Glossary

C. Support Services

1. Funds allocated under this program for services provided by an AAA, or entity that such agency has contracted with, shall be expended in five basic categories listed below. All appropriate state licensing requirements must be met.
 - a. *Information*—about available services. Examples include, but are not limited to public information, community education, information and referral, and outreach services.
 - b. *Assistance*—gaining access to the services. Examples include, but are not limited to information and assistance, case management, transportation, and assisted transportation.
 - c. *Counseling/Support Programs/Groups and Caregiver Training*—to caregivers to assist in making decisions and solving problems relating to their care giving roles. Examples include, but are not limited to individual counseling, support groups, or caregiver training.
 - d. *Respite Care*—to enable caregivers to be temporarily relieved from their care-giving responsibilities. Examples include, but are not limited to adult day care/adult day health, mobile day care, group respite, in-home respite, and institutional respite. Temporary means not more than 120 hours per calendar year per qualifying individual.

The AAA may request an exception to this rule, in writing, at the beginning of each fiscal year based upon need.

- e. *Supplemental Services*—on a limited basis, to complement the care provided by caregivers. Examples include, but are not limited to chore, homemaker, home repair/modification, personal care service, sitter service, material aid, or any other services approved by the GOEA.
 2. The services provided under this program shall supplement, and not supplant, replace, or substitute any services described in §1245.C.1. of this manual using Federal, State, or local funds on or before November 12, 2000, which was one day before the date of enactment of Title III-E.
 3. AAAs may not use more than 10 percent of the funds allocated under this program to provide the support services listed in §1245.C.1. of this manual to grandparents and older individuals who are relative caregivers.
 4. The AAA may not use more than 20 percent of the funds allocated under this program to provide supplemental services. An AAA request from GOEA, at the beginning of each fiscal year, to allocate up to an additional 10 percent of the funds under this program. The request must demonstrate need. An AAA or entity that such agency has contracted with may use other funds to provide additional supplemental services.
 5. Of the funds not expended pursuant to §1245.C.3. of this manual, at least 40 percent shall be reserved for respite services.
- D. Participant Eligibility and Priority Requirements
1. Eligibility Criteria
 - a. Services shall be provided to:
 - i. family caregivers (See Glossary for definition); and
 - ii. grandparents or older individuals who are relative caregivers (See Glossary for definition).
 - b. Services specified in §1245.C.1.d. and §1245.C.1.e. of this manual, shall be provided to a family caregiver who is providing care to an older individual who is determined to be functionally impaired because the individual:
 - i. is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or
 - ii. due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.
 2. An AAA or entity that such agency has contracted with shall give priority to older individuals with greatest social and economic need, (with particular attention to older individuals who are low-income minority, have limited English proficiency, and/or reside in rural areas) and older individuals providing care and support to persons with mental retardation and related developmental disabilities.

3. No one shall be entitled to receive the maximum services allowed. Service plans shall be based upon individual client needs. Services shall be provided as permitted by available funding.
- E. Participant Selection Criteria.
Participants in this program shall be selected using guidelines established by the GOEA.
- F. Coordination with Service Providers.
Each AAA shall coordinate the activities of the agency, or entity that such agency has contracted with, or with the Senior Companion Program located in the planning and service area, with activities of other community agencies and voluntary organizations providing the types of services described in §1245.C.
- G. Accountability
1. The AAA shall collect data and maintain records relating to this program in the format specified by the GOEA. The AAA shall furnish the records to the GOEA in the prescribed time frame. These records will enable the GOEA to monitor the program administration and compliance, and to evaluate and compare the effectiveness of this program.
 2. The AAA shall prepare and submit to the GOEA reports on the data and records required under §1245.G.1. of this manual, including information on the services funded under this program.
 3. The AAA or entity that such agency has contracted with shall comply with standards established by the GOEA to assure the quality of services provided with assistance made available under this program.

HEARING PROCEDURES

§1265. General Hearing Provisions

A. Purpose. The Governor's Office of Elderly Affairs (GOEA) shall provide the opportunity for a hearing, on request, to area agencies on aging submitting plans under Title III of the Older Americans Act, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan; and to any unit of general purpose local government, region within the state recognized for area wide planning, metropolitan area, or Indian reservation that applies for designation as a planning and service area when GOEA initiates certain types of action or proceedings. This Section specifies the timing and procedures for the hearings.

B. Definitions

Act—the Older Americans Act (42 United States Code Section 3001 et seq.).

Administration on Aging—an agency of the U.S. Department of Health and Human Services, Office of Human Development Services. It is the Federal focal point and advocate for older persons and their concerns.

Area Agency on Aging—the agency designated by the Governor's Office of Elderly Affairs in a planning and service area to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

Area Plan—the document submitted by an area agency to the Governor's Office of Elderly Affairs in order to receive contracts from the Governor's Office of Elderly Affairs.

Assistant Secretary for Aging—the head of the Administration on Aging.

Contract—an award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

Director—the director of the Governor's Office of Elderly Affairs.

Governor's Office of Elderly Affairs—the single state agency designated to develop and administer the state plan and be the focal point on aging in the state of Louisiana.

Hearing Examiner—an impartial person designated to preside at the hearing and render a proposed final decision.

Interested Person—any person who has a justifiable and clearly identifiable interest in the decision being appealed.

Party—any petitioner or the area agency or the Governor's Office of Elderly Affairs which proposed or decided the action being appealed.

Person—an individual, partnership, corporation, association, governmental agency or subdivision, or public or private organization of any character.

Petitioner—any person who has a right to a hearing under these rules and has filed a written request for a hearing.

Planning and Service Area—a geographic area of the state that is designated by the state agency for the purpose of planning, development, delivery, and overall administration of services under an area plan.

Service Provider—an entity that is awarded a subcontract from an area agency to provide services under the area plan.

State Agency—the single state agency designated to develop and administer the state plan and to be the focal point on aging in the state.

C. General Procedures for Hearing

1. **Decisions Unresolved on Effective Date of These Rules.** These rules shall be applicable to all cases involving actions in which the petitioner has filed a request for hearing within 30 days of the receipt of the notice of such action, and a hearing has not yet been held or informal disposition or arrangements made as specified in §1265.C.4.
2. **Computation of Time.** In computing any record of time prescribed by these rules, or by any applicable statute, the period shall begin on the day after the event or act cited in the rule or statute and conclude on the last day of the computed period, unless the last day be a Saturday, Sunday, or a legal holiday, in which case the period concludes on the next day which is neither a Saturday, Sunday, nor a legal holiday.
3. **Representation of Petitioner.** Any party may be assisted by an attorney at law authorized to practice law before the Supreme Court of the State of Louisiana. Any party may appear personally or be represented by an employee or officer, or other person authorized by the party to represent the party.
4. **Informal Disposition.** Informal disposition or arrangements may be made of any matters under these rules by written agreement between petitioner and the area agency or the Governor's Office of Elderly Affairs proposing or deciding the action that resolves the issue(s) that led to the hearing.

D. Incorporation of Administrative Procedure Act. There is hereby incorporated as a part of these rules, to the extent same be applicable and pertinent, the provisions of R.S. 49:951 et seq., the Administrative Procedure Act, as amended.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), Section 307(a)(5) and 45 CFR 1321.43(e).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2207 (November 1999).

§1267. Hearing Procedures for Area Agencies

- A. Purpose. The purpose of this Section is to establish procedures that Governor's Office of Elderly Affairs (GOEA) will follow to provide due process to affected AAAs whenever GOEA initiates particular types of action or proceedings.
- B. Right to a Hearing. GOEA shall provide affected AAAs reasonable notice and opportunity for a hearing whenever GOEA initiates an action or proceeding to:
1. revoke the designation of an AAA;
 2. designate an additional planning and service area in the state;
 3. divide the state into different planning and service areas; or
 4. otherwise affect the boundaries of the planning and service areas in the state.
- C. Notice of Proposed Action
1. The Governor's Office of Elderly Affairs shall issue a written notice to the area agency which shall include:
 - a. a statement of the proposed action;
 - b. a short and plain statement of the reasons for the proposed action and the evidence on which the proposed action is based; and
 - c. a reference to the particular Sections of statutes, regulations, and rules involved.
 2. The notice shall be sent by registered or certified mail, return receipt requested.
- D. Request for Hearing
1. The request for hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the proposed action.
 2. A request for hearing must be in writing and must state with specificity the grounds upon which the proposed action is appealed and all grounds upon which petitioner refutes the basis of the proposed action. The request must include:
 - a. the dates of all relevant actions;
 - b. the names of individuals or organizations involved in the proposed action;
 - c. a specific statement of any Section of the Act or regulations believed to have been violated;
 - d. a certified copy of the minutes or resolution in which petitioner's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or

- organization. The minutes or resolution shall indicate adoption by a majority of the quorum of the governing body of the agency or organization; and
- e. a request for a transcript of the hearing, if desired.
- E. Notice of Hearing
1. Upon receipt of a request for hearing the director shall, within 10 days, set a date for the hearing.
 2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner and interested persons which shall include:
 - a. a statement of time, date, and location of the hearing;
 - b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. a reference to the particular Sections of statutes, regulations, and rules involved; and
 - d. a short and plain statement of the reasons for the proposed action that is being appealed and the evidence on which the proposed action is based.
 3. Petitioner and other parties shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.
- F. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing subject to the provisions of R.S. 49:960. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the Governor's Office of Elderly Affairs or petitioner.
- G. Rules of Evidence
1. In hearings, under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.
 2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.
 3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.
 5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the Governor's Office of Elderly Affairs specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of the Governor's Office of Elderly Affairs and its staff may be utilized in evaluating the evidence.
 6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.
- H. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or their representatives shall be governed by R.S. 49:960.
- I. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956(5)-(8).
- J. Hearing
1. Petitioner shall open and present its evidence to establish its position on the matters involved. Interested persons shall follow and present their evidence; then the Governor's Office of Elderly Affairs shall present its evidence. Petitioner may thereafter present rebuttal evidence only, such evidence to be confined to issues raised in petitioner's opening presentation and Governor's Office of Elderly Affairs following presentation or that of others. Petitioner shall be given the opportunity to offer final argument, but no additional presentation of evidence.
 2. The hearing shall be completed within 120 days of the date the request for hearing was received.
- K. Transcript. The proceedings of the hearing shall be transcribed on request of any party or person. The cost of transcription will be borne by the person requesting the transcript, unless otherwise provided by law. The Governor's Office of Elderly Affairs may require a deposit in the form of a certified check or cashier's check in an amount reasonably determined by the Governor's Office of Elderly Affairs to be adequate to cover all costs

of transcription. In the event that transcription is not requested, the Governor's Office of Elderly Affairs, at its option, may produce a summary record of the proceedings of the hearing; provided that if such a summary record is produced by Governor's Office of Elderly Affairs, it shall provide the area agency with notice of the fact that such summary record was prepared and with the opportunity to copy or inspect same.

L. Final Decision

1. All final decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. The area agency shall comply with the final decision. A copy of the decision shall be sent immediately to the parties by registered or certified mail, return receipt requested.
2. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under these rules includes:

1. all pleadings, motions, and intermediate rulings;
2. evidence received or considered, or a resume thereof if not transcribed, except matters so obvious that a statement of them would serve no useful purpose;
3. a statement of matters officially noted;
4. offers of proof, objections and rulings on them;
5. proposed findings and exceptions; and
6. any decision, opinion, or report by the hearing examiner presiding at the hearing.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2208 (November 1999).

§1269. Hearing Procedures for Applicants for Planning and Service Area Designation

- A. Purpose. The Governor's Office of Elderly Affairs is required to provide an opportunity for a hearing to any qualified applicant for designation as a planning and service area (PSA) whose application is denied by the Governor's Office of Elderly Affairs.
- B. Right to a Hearing. The Governor's Office of Elderly Affairs shall provide an opportunity for a hearing, and issue a written decision to any unit of general purpose local government; region within the state recognized for purposes of area wide planning which includes one or more such units of general purpose local government; metropolitan area; or Indian reservation whose application for designation as a planning and service area is denied.
- C. Request for Hearing

1. The request for a hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the adverse decision.
2. A request for hearing must be in writing and must state with specificity the grounds upon which the Governor's Office of Elderly Affairs decision is appealed and all grounds upon which petitioner refutes the basis of the adverse decision. The request must include:
 - a. the dates of all relevant actions;
 - b. the names of individuals or organizations involved in the action;
 - c. a specific statement of any Section of the Act or regulations believed to have been violated;
 - d. a certified copy of the minutes or resolution in which the applicant's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of a quorum of the governing body of the agency or organization; and
 - e. a request for a transcript of hearing, if desired.
3. Petitioners shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 days, set a date for the hearing.
2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner, which shall include:
 - a. a statement of time, date, location, and nature of the hearing;
 - b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. a reference to the particular Section of statutes, regulations, and rules involved; and
 - d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based.
3. If the Governor's Office of Elderly Affairs is unable to state in detail the evidence and reasons for the decision at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished not less than three days prior to the date set for the hearing.
4. Petitioner shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

- E. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:960. The hearing examiner shall conduct the hearing in an orderly fashion and in accordance with the procedures outlined herein. It is the responsibility of the hearing examiner to fully consider information relevant to the complaint and draft a fair decision based on such information.
- F. Rules of Evidence. The rules of evidence for hearings held under §1269 of this manual shall be as provided in §1267.G.
- G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his representative shall be governed by R.S. 49:960, the Administrative Procedure Act.
- H. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Administrative Procedure Act.
- I. Hearing. The procedure to be followed for hearings held under §1269 shall be as provided in §1267.J.
- J. Transcript. The rules governing transcripts for hearings held under §1269 shall be as provided in §1267.J.
- K. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested.
- L. Rehearing. Procedures for rehearings shall be governed by R.S. 49:959.
- M. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.
- N. Appeal to Assistant Secretary for Aging. Any eligible applicant for PSA designation, whose application has been denied, and who has been provided a written decision by the GOEA, may appeal the denial to the Assistant Secretary for Aging in writing within 30 days following receipt of the state agency's decision. Such appeal shall be governed by the procedures outlined in the federal regulations issued by the Assistant Secretary for Aging.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), (4), and 45 CFR 1321.47.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2210 (November 1999).

§1271. Hearing Procedures for Service Providers and Applicants

- A. Purpose. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide

services whose application under an area plan is denied or whose contract is terminated or not renewed.

B. Right to a Hearing. Any service provider or applicant to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M, may request a hearing by GOEA on such action after all hearing procedures of the area agency on aging (AAA) have been exhausted.

C. Request for Hearing

1. A petitioner must request the hearing from GOEA within 30 days following receipt of the AAA's final action letter.
2. The request for the hearing shall be in writing and must state with specificity all grounds upon which petitioner refutes the basis of the action. The notice must include:
 - a. a copy of the AAA's action letter;
 - b. the dates of all relevant actions;
 - c. the names of individuals and organizations involved in the action appealed;
 - d. a citation of any provision of the Older Americans Act or accompanying regulations believed to have been violated by the AAA in taking the action appealed; and
 - e. a certified copy of the resolution by which, or of minutes of the meeting at which, the petitioner's governing body authorized the appeal; and
 - f. designation of one or more persons to represent it during the appeal, both by majority vote of a quorum of the governing body.

D. Submission of Hearing

1. The AAA, upon written request from GOEA, shall furnish copies of the following documents to the GOEA:
 - a. the minutes of the meeting of the AAA's governing body at which the subject action was considered and taken;
 - b. the minutes of the meeting of the AAA's advisory council at which the subject action was considered and recommended;
 - c. area agency memoranda, staff reports, and evaluations relevant to the action appealed;
 - d. the criteria used in awarding the contract involved in the hearing; and
 - e. the petitioner's application for the contract involved in the hearing.
2. No additional evidence may be admitted on the hearing unless the director of GOEA requests it or schedules an evidentiary hearing under §1271.E.

E. Evidentiary Hearing

1. If the director of GOEA determines that a hearing involves a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, he/she may schedule a hearing to take testimony. The director shall provide all parties at least 10 working days notice of the date, place, and time of the hearing. Said notice shall be sent by registered or certified mail, return receipt requested. The notice shall include a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.
2. The director may serve as the hearing examiner, or may appoint an impartial hearing examiner to preside at the hearing. The hearing examiner shall have the powers described in §1267.F.
3. The rules of evidence described in §1267.G shall apply to an evidentiary hearing under this Section.
4. The hearing examiner shall make a record of the evidentiary hearing in accordance with §1267.M.
5. The rules pertaining to evidence, ex parte consultations, depositions, hearings and transcripts shall be as provided in Subsections G, H, I, J, and K of §1267, respectively.

F. Final Decision

1. The director shall decide all hearings under this rule but may direct a GOEA employee to make an initial review and recommend a decision.
2. The director shall decide the hearing solely on the basis of the record. The director shall not substitute his/her judgment for that of the AAA as to the weight of the evidence on matters committed to the AAA's discretion. The director shall affirm the action heard unless it is unlawful, arbitrary, or not reasonably supported by substantial evidence in the record.
3. The director shall render a final decision on the hearing in writing within 120 days after receipt of the notice of appeal. The director shall send a copy of the final decision to each party by registered or certified mail, return receipt requested, within three days after it is rendered.

G. Rehearing. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

H. Record. The record for the hearing under this rule shall consist of the material listed in §1267.M.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 26:79 (January 2000).

§1273. Hearing Procedures for Persons Filing Grievances with the Office of the State Long Term Care Ombudsman

- A. Right to a Hearing. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to any person filing a formal grievance with the Office of the State Ombudsman pursuant to §1229.L.3.b. or to the ombudsman against whom the grievance was filed, whenever either party disagrees with the decision rendered by the State Ombudsman pursuant to LAC 4:VII.1229 L.3.f or L.5.b.iii.
- B. Request for Hearing
1. A request for hearing must be received by GOEA within 30 days following petitioner's receipt of the notice of the State Ombudsman's decision.
 2. A request for hearing must be in writing and must state with specificity the grounds upon which the State Ombudsman's decision is appealed. The request must include:
 - a. the dates of all relevant actions;
 - b. the names of individuals or organizations involved in the action;
 - c. a specific statement of any laws or regulations believed to have been violated; and
 - d. all grounds upon which petitioner refutes the State Ombudsman's decision.
- C. Notice of Hearing
1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.
 2. GOEA shall issue a written notice to the petitioner and other interested persons which shall include:
 - a. a statement of time, date, exact physical location (to include street address and city), and nature of the hearing;
 - b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. a reference to the particular Section of statutes, regulations, and rules involved;
 - d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based; and
 - e. a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:950 et seq. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the State Ombudsman or the petitioner.
2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision. In rendering his/her decision, the hearing examiner shall consider:
 - a. all information relevant to the complaint;
 - b. the provision of Section 307 (a) (12) of the Older Americans Act which requires the State Ombudsman or his/her representatives to "investigate and resolve complaints made by or on behalf of older individuals who are residents of long term care facilities relating to action, inaction or decisions...which may adversely affect the health, safety, welfare or rights of such residents"; and
 - c. R.S. 2010.4 (D), which states, "No representative of the Office of the State Ombudsman will be liable under state law for the good faith performance of official duties as defined by state and federal laws and regulations."

E. Rules of Evidence

1. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible there under may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.
2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.
3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.
4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of GOEA's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of GOEA and its staff may be utilized in evaluating the evidence.
6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.
- F. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his/her representative shall be governed by R.S. 49:950 et seq. the Administrative Procedure Act.
- G. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Administrative Procedure Act.
- H. Hearing. The procedure to be followed for hearings held under §1273 shall be as provided in Subsection 1267.J.
- I. Transcript. The rules governing transcripts for hearings held under §1273 shall be as provided in Subsection 1267.K.
- J. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested. A copy of the decision shall also be sent to any other persons directly affected by the decision.
- K. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.
- L. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.11(a), published in the Federal Register/Vol. 53, No. 169/Wednesday, August 31, 1988.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:265 (March 1992), amended LR 26:80 (January 2000).

DRUG TESTING FOR EMPLOYEES

§1281. Definitions

Controlled Substance—a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substance Act (21 U.S.C. 812).

Designer (Synthetic) Drugs—those chemical substance that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee—unclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g., full time, part time, temporary, etc.).

Illegal Drug—any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

Reasonable Suspicion—belief based upon objective an articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive and Security-Sensitive Positions—all positions with duties that may either authorize or require the operation or maintenance of a public vehicle, or the supervision of such an employee. All positions with duties that may require responsibility for or access to confidential or classified information.

Under the Influence—for the purposes of this policy, a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical in maintaining balance. A professional opinion or a scientifically valid test can establish a determination of influence.

Workplace—any location on agency property including all property, offices and facilities (including all vehicles and equipment) whether owned, leased or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MFJ 98-38 and R.S.49:1015 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Office Elderly Affairs, LR 28:2510 (December 2002).

§1283. Policy Provisions

A. General Provisions

1. It shall be the policy of the Governor's Office of Elderly Affairs to maintain a drug-free workplace and a workforce free of substance abuse. Employees are prohibited from reporting for work or performing work for the Agency with the presence of illegal drugs, controlled substances, or designer (synthetic) drugs in their bodies at the initial testing levels and confirmatory testing levels or above the levels as established in the contract between the state of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty, or on call for duty.
2. The agency will procure employee drug testing services through the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws.

B. To assure maintenance of a drug-free workforce, it will be the policy of the Governor's Office of Elderly Affairs to implement a program of drug testing under the following conditions.

1. Reasonable Suspicion. Any employee will be required to submit to a drug test if there is a reasonable suspicion (as defined in this policy) that the employee is using drugs.
2. Post-Accident. Each employee involved in an accident which occurs during the course of employment will be required to submit to a drug test if the accident:
 - a. involves circumstances leading to a reasonable suspicion of the employee's drug use;
 - b. results in a fatality; or
 - c. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

C. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or has a rehabilitation agreement with the agency following an incident involving substance abuse will be required to submit to random drug testing once every six months until the agency receives documented proof of a release from treatment by the physician or program director.

D. Pre-Employment. Each prospective employee, appointee, and all other persons beginning an employment relationship with the agency will be required to submit to drug screening at the time and place designated by the agency representative who administers the drug testing program, following a job offer contingent upon a negative drug-testing result.

Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

- E. Safety-Sensitive and Security-Sensitive Positions. These positions are identified within the agency by the appointing authority of the Governor's Office of Elderly Affairs and determined to be safety or security-sensitive after consultation with Louisiana Department of Justice.
- F. Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position (as defined in this policy) may be required to pass a drug test before being placed in such a position, whether through appointment or promotion.
- G. Random Testing. Every employee in a safety-sensitive or security-sensitive position will be required to submit to drug testing as required by the appointing authority, who will periodically call for a sample of such employees, selected at random by a computer-generated selection process, and require them to report for testing. All such testing will, if practicable, occur during the selected employee's work schedule.
- H. Confidentiality. All information, interviews, reports, statement, memoranda, and/or test results received by the executive agency through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.
- I. Drug Test Failures. Pursuant to R.S. 49:1008, if a prospective employee tests positive for the presence of drugs in the initial drug screening, the positive drug test result shall be the cause of the prospective employee's elimination from consideration for employment or appointment.
 - 1. Pursuant to R.S. 49:1011, the Office of Elderly Affairs will afford an employee whose drug result is certified positive by the medical review officer, the opportunity to undergo rehabilitation without termination of employment. All rehabilitation must be programs that are approved and listed by the Officer of Alcohol and Drug Abuse for state agencies.
 - 2. An employee whose drug tests results are certified positive will be required to take 30 days leave either as annual (A) or sick (B) leave. All rehabilitation services or assistance will be conducted at the employee's expense. The employer is not responsible for the expenses accrued.
 - 3. Failure to submit to drug testing or rehabilitation services may be reason for termination of employment with agency.
 - 4. The Office of Elderly Affairs is committed to maintaining workplace free of harassment and intimidation for all its employees, and will not tolerate inappropriate actions

regarding drug testing and confidential drug testing information. This includes conduct, which has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

J. Responsibility. The Executive Director of the Governor's Office of Elderly Affairs is responsible for the overall compliance with this policy and will submit to the Office of the Governor, through the Commissioner of Administration, a report on the policy and drug testing program, describing process, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

K. Violation of the Policy. Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, will result in actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MFJ 98-38 and R.S. 49:1015 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Office Elderly Affairs, LR 28:2510 (December 2002).

STATE PLANNING ON AGING

§1301. State Plan on Aging

- A. To receive funding from the Older Americans Act the State Agency on Aging must have an approved State Plan on Aging. This plan must be on file with the Administration on Aging and be available for public review. At the minimum, the plan must include:
1. identification by the state of the sole state agency that has been designated to develop and administer the plan;
 2. statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the commissioner through the rulemaking process;
 3. a resource allocation plan indicating the proposed use of all Title III funds administered by the state agency and the distribution of Title III funds to each planning and service area;
 4. Identification of the geographic boundaries of each planning and service area and of area agencies on aging;
 5. prior federal fiscal year information related to low income minority and rural older individuals;
 6. all assurances and provisions as outlined in the Older Americans Act and regulations, as well as the following assurances:
 - a. preference is given to older persons in greatest social or economic need in the provision of services under the plan;
 - b. procedures exist to ensure that all services under this part are provided without use of any means tests;
 - c. all services provided under Title III meet any existing state and local licensing, health and safety requirements for the provisions of those services;
 - d. older persons are provided opportunities to voluntarily contribute to the cost of services;
 - e. other such assurances as are needed for compliance with the Act, regulations, other applicable federal law, state statutes, and/or state policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1610 (August 2000), LR 30:1695 (August 2004)) LR 35:662 (April 2009).

§1303. Development of the State Plan

- A. The state agency will develop a state plan according to the following:
1. elect to utilize a one-, two-, three-, or four-year format for the state plan;
 2. develop a data profile on the older Louisianans from available census data;
 3. conduct statewide needs assessment activities including, but not limited to, public hearings;
 4. assurances for state and area agencies on aging as set forth by the Older Americans Act;
 5. goals and objectives;
 6. publicize public hearing(s) giving dates, times, locations to public officials and other interested parties for their participation;
 7. conduct public hearings and incorporate written and verbal comments into the revised plan, as appropriate;
 8. submit final revised plan for approval by the governor;
 9. submit approved plan from the governor to the Administration on Aging Regional Office for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 15:263 (April 1989), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1611 (August 2000), LR 30:1696 (August 2004) LR 35:662 (April 2009).

§1305. Intrastate Funding Formula

- A. Intrastate Funding Formula
1. The following is a descriptive summary of the current Intrastate Funding Formula's assumptions and goals, and the application of the definitions of greatest economic or social need and a demonstration of the allocation of funds, pursuant to the formula, to each PSA.
 2. Descriptive Statement
 - a. The current intrastate funding formula for the distribution of Older Americans Act Title III funds in Louisiana provides for a base allocation by parish. The following factors are considered in the distribution of funds remaining after base allocations are made: population aged 60 and over; population aged 60 and over below the Bureau of the Census poverty threshold; population aged 75 and over; and land area in square

- miles. Each of these factors is derived by dividing the planning and service area total by the state total.
- b. Population aged 60 and over, and land area in square miles is assigned weights of one each. Population aged 60 and over below the Bureau of the Census poverty threshold is assigned a weight of nine-tenths. Population aged 75 and over is assigned a weight of one-tenth. The sum of these four factors is three.
 - c. Those elderly in greatest economic need are defined as persons aged 60 and older whose incomes are at or below the poverty threshold established by the Bureau of the Census. Those elderly in greatest social need are defined as persons aged 60 and over who have needs based on noneconomic factors such as social isolation caused by living in remote areas, or who are especially vulnerable due to the heightened possibility of frailty among elderly aged 75 and older. Other social needs are those, which restrict an elderly individual's ability to perform normal daily tasks, or which restrict his or her ability to live independently; they can be caused by racial or ethnic status, or language barriers. The intrastate funding formula accounts for these individuals by not allocating funds solely on the basis of population. The land area in square miles factor is included to compensate area agencies serving predominantly rural areas for the special problems encountered by sparse populations who may be spread over large geographical areas. The four funding factors combine to meet the special needs of socially and economically needy elderly, urban elderly and rural elderly.
 - d. The base funding allocation of \$12,000 per parish is established on the assumption that this amount represents a minimum allocation for the administration of Older Americans Act programs. There is an increasing need to provide a continuum of care for the very old (aged 75 and older) as this segment of the population gets larger each year. Funding limitations dictate that this group is given special emphasis.
3. Numerical Statement of the Intrastate Funding Formula
- a. Base Allocation per PSA: \$12,000 per parish

b. Formula Allocation per PSA:

	Factors	Weight
i.	<u>PSA 60+ Population</u> State 60+ Population	1.0
ii.	<u>PSA 60+ Population below Poverty Threshold</u> State 60+ Population below Poverty Threshold	0.9
iii.	<u>PSA Land Mass in Square Miles</u> State Land Mass in Square Miles	1.0
iv.	<u>PSA 75+ Population</u> State 75+ Population	<u>0.1</u>
v.	Sum	3.0

4. $PSA \text{ FORMULA} = \frac{(i) \times 1 + (ii) \times 0.9 + (iii) \times 1 + (iv) \times 0.1}{3}$

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1611 (August 2000), LR 30:1696 (August 2004) LR 35:662 (April 2009).

SUBCHAPTER A: STATE AGENCY ON AGING

§1101. Office of Elderly Affairs

A. Authority, Organization, and Purpose

1. Chapter 7 of Title 46 of the Louisiana Revised Statutes of 1950 (R.S. 46:931 et seq.) provides for the establishment and administration of the Office of Elderly Affairs (GOEA) within the Office of the Governor.
2. GOEA serves as the focal point for the development and administration of public policy regarding Louisiana's elderly citizens. GOEA is the sole state agency designated by the governor and the legislature to develop and administer the state plan on aging. GOEA also administers the Long Term Care Ombudsman Program.

B. Powers and Responsibilities

1. GOEA has the following powers and duties under state law:
 - a. to administer the Older Americans Act and related programs;
 - b. to collect facts and statistics and make special studies of conditions pertaining to the employment, health, financial status, recreation, social adjustment or other conditions affecting the welfare of the aged;
 - c. to keep abreast of the latest developments in aging throughout the nation and to interpret such findings to the public;
 - d. to provide for a mutual exchange of ideas and information on the national, state, and local levels;
 - e. to conduct hearings and to subpoena witnesses;
 - f. to make recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the aging in the state;
 - g. to adopt and promulgate rules and regulations deemed necessary to implement the provisions of the law in accordance with the Administrative Procedure Act;
 - h. to exercise the functions of the state relative to nutrition programs for the elderly and handicapped citizens of Louisiana;
 - i. to operate the Office of the State Long Term Care Ombudsman;
 - j. to administer all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, whether by block grant or in any other form, with the exception of funds for programs administered by the Department of Children and Family Services or the Department of Health and Hospitals, on August 15, 1995, and to distribute those funds in accordance with and consistent with R.S. 46:936;

- k. to approve recommendations from any parish voluntary council on aging prior to the creation of a new state-funded senior center in the state, and
- l. to provide meeting space and staff support for the Executive Board on Aging [R.S. 46:933(G)].

C. Functions of the Governor's Office of Elderly Affairs

1. Administrative Functions—

- a. to develop and follow written policies in carrying out its functions under state and federal laws and regulations;
- b. to develop and enforce policies governing all aspects of programs operating under the Older Americans Act, whether operated directly or under contract;
- c. to manage and control funds received from federal and state sources;

2. Advocacy Functions—

- a. to review, monitor, evaluate and comment on all federal, state and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and recommend any changes in these which GOEA considers to be appropriate;
- b. to review and comment, upon request, on applications to state and federal agencies for assistance in meeting the needs of the elderly;
- c. to consolidate and coordinate multiple state and federal resources to facilitate the development of comprehensive community-based services for the elderly; and
- d. to develop financial resources for programs on aging beyond those allocated under the Older Americans Act.

3. Service Systems Development Functions—

- a. to develop and administer the state plan on aging;
- b. to be primarily responsible for the planning, policy development, administration, coordination, priority setting and evaluation of all state activities related to the objectives of the Older Americans Act;
- c. to divide the state into distinct planning and service areas, in accordance with guidelines issued by the Administration on Aging;
- d. to designate for each planning and service area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging (AAA) for such area;

- e. in consultation with area agencies on aging, in accordance with guidelines issued by the Administration on Aging, and using the best available data, to develop and publish, for review and comment, a formula for distribution within the state of funds received under Title III of the Older Americans act that takes into account:
 - i. the geographical distribution of older individuals in the state; and
 - ii. the distribution among planning and service areas of older individuals with greatest economic need and/or greatest social need, with particular attention to low-income minority older individuals;
- f. to develop Elder Rights Protection Systems focused on protecting the rights of vulnerable older individuals who reside in the community and in institutional settings. It includes the provision of Long Term Care Ombudsman services; Legal Assistance Development.

D. Governor's Office of Elderly Affairs Administration

1. Policies

- a. OEA shall develop and enforce written policies in carrying out its functions under state and federal laws and regulations. These policies shall be developed in consultation with other appropriate parties within the state. GOEA shall keep its policies current, and revise them as necessary in accordance with the Louisiana Administrative Procedure Act.

2. Program Monitoring

- a. OEA shall monitor the performance of all programs and activities initiated under the Older Americans Act for quality and effectiveness:

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, OAA Sections 203, 305, 307 and 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2199 (November 1999), LR 28:1016 (May 2002), LR 31:1330 (June 2005), LR 42: 1508 (September 2016)

SUBCHAPTER C: COUNCILS ON AGING

§1151. Establishment of Parish Councils on Aging

A. Issuance of Charters

Charters for the establishment of parish voluntary Councils on Aging (COA) are issued by the Secretary of State upon the approval of applications by the Governor's Office of Elderly Affairs (GOEA) pursuant to R.S. 46:1602. Immediately upon issuance of the charter by the Secretary of State, each COA is authorized to receive public funds from

any governmental or political subdivision. Such funds shall be subject to audit by the GOEA and the legislative auditor, or his duly appointed representative.

B. Governance

1. The functions of each COA shall comply with the objectives of state laws and shall be governed by the policies and regulations established by the GOEA. Copies of such policies and regulations shall be furnished to each COA by the GOEA prior to their effective date.
2. Each COA shall be voluntary as to its membership and as to all plans, programs and activities, and each shall be non-profit making and politically non-partisan and non-factional and shall be non-sectarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:87.2(E), 46:932(8), 46:1601, 46:1602, 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1467 (August 1999), amended LR 42: 1508 (September 2016)

SUBCHAPTER D: SERVICE PROVIDER RESPONSIBILITIES

§1203. Applicable Laws and Standards

- A. Service providers shall comply with all OEA licensing standards, all applicable accrediting standards, any applicable federal standards and all applicable state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1231.9(e)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1476 (August 1999), LR 42: 1510 (September 2016)

SUBCHAPTER E: UNIFORM SERVICE REQUIREMENTS

§1229. Office of the Long Term Care Ombudsman

- A. Purpose. The purpose of the Louisiana Office of the Long Term Care Ombudsman is to ensure that residents of long term care facilities receive the quality of life to which they are entitled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:2010.4 and OAA Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:35 (January 1985), LR 11:1078 (November 1985), LR 13:742 (December 1987), LR 15:379 (May 1989), LR 17:600 (June 1991), repromulgated LR 17:661 (July 1991), amended LR 18:267 (March 1992), LR 24:1928 (October 1998), LR 28:1018 (May 2002), LR 42: 1510 (September 2016)

§1231. Senior Community Service Employment Program

- A. Purpose

The purpose of the Senior Community Service Employment Program is to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are 55 years or older and who have poor employment prospects, in order to foster individual economic self-sufficiency and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 501, 20 CFR Part 674 and 20 CFR Part 89.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 24:1766 (September 1998), LR 28:1018 (May 2002), LR 42: 1510 (September 2016)

§1239. Protective Services for the Elderly

A. Overview of Elderly Protective Services

1. Purpose.

The purpose of Protective Services is to protect adults who cannot physically or mentally protect themselves and who are harmed or threatened with harm through action or inaction by themselves or by the individuals responsible for their care or by other persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:327 (March 1993), amended LR 20:543 (May 1994), LR 24:1763 (September 1998), LR 42: 1510 (September 2016)

§1245. Family Caregiver Support Program

A. Purpose. The purpose of the Family Caregiver Support Program is to provide multifaceted systems of support services for family caregivers and for grandparents or older individuals who are relative caregivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as Amended in 2000, (P. L. 106-501); and 42 U.S.C. 6001.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 27:1518 (September 2001), amended LR 31:1331 (June 2005), LR 42: 1510 (September 2016)

SUBCHAPTER F: HEARING PROCEDURES

§1265. General Hearing Provisions

A. Purpose. The Governor's Office of Elderly Affairs (GOEA) shall provide the opportunity for a hearing, on request, to area agencies on aging submitting plans under Title III of the Older Americans Act, to any provider of a service under such a plan, or to any applicant

to provide a service under such a plan; and to any unit of general purpose local government, region within the state recognized for area wide planning, metropolitan area, or Indian reservation that applies for designation as a planning and service area when GOEA initiates certain types of action or proceedings. This Section specifies the timing and procedures for the hearings.

B. Definitions

Act—the Older Americans Act (42 United States Code Section 3001 et seq.).

Administration on Aging—an agency of the U.S. Department of Health and Human Services, Office of Human Development Services. It is the Federal focal point and advocate for older persons and their concerns.

Area Agency on Aging—the agency designated by the Governor's Office of Elderly Affairs in a planning and service area to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

Area Plan—the document submitted by an area agency to the Governor's Office of Elderly Affairs in order to receive contracts from the Governor's Office of Elderly Affairs.

Assistant Secretary for Aging—the head of the Administration on Aging.

Contract—an award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

Director—the director of the Governor's Office of Elderly Affairs.

Governor's Office of Elderly Affairs—the single state agency designated to develop and administer the state plan and be the focal point on aging in the state of Louisiana.

Hearing Examiner—an impartial person designated to preside at the hearing and render a proposed final decision.

Interested Person—any person who has a justifiable and clearly identifiable interest in the decision being appealed.

Party—any petitioner or the area agency or the Governor's Office of Elderly Affairs which proposed or decided the action being appealed.

Person—an individual, partnership, corporation, association, governmental agency or subdivision, or public or private organization of any character.

Petitioner—any person who has a right to a hearing under these rules and has filed a written request for a hearing.

Planning and Service Area—a geographic area of the state that is designated by the state agency for the purpose of planning, development, delivery, and overall administration of services under an area plan.

Service Provider—an entity that is awarded a subcontract from an area agency to provide services under the area plan.

State Agency—the single state agency designated to develop and administer the state plan and to be the focal point on aging in the state.

C. General Procedures for Hearing

1. **Decisions Unresolved on Effective Date of These Rules.** These rules shall be applicable to all cases involving actions in which the petitioner has filed a request for hearing within 30 days of the receipt of the notice of such action, and a hearing has not yet been held or informal disposition or arrangements made as specified in §1265.C.4.
2. **Computation of Time.** In computing any record of time prescribed by these rules, or by any applicable statute, the period shall begin on the day after the event or act cited in the rule or statute and conclude on the last day of the computed period, unless the last day be a Saturday, Sunday, or a legal holiday, in which case the period concludes on the next day which is neither a Saturday, Sunday, nor a legal holiday.
3. **Representation of Petitioner.** Any party may be assisted by an attorney at law authorized to practice law before the Supreme Court of the State of Louisiana. Any party may appear personally or be represented by an employee or officer, or other person authorized by the party to represent the party.
4. **Informal Disposition.** Informal disposition or arrangements may be made of any matters under these rules by written agreement between petitioner and the area agency or the Governor's Office of Elderly Affairs proposing or deciding the action that resolves the issue(s) that led to the hearing.

D. **Incorporation of Administrative Procedure Act.** There is hereby incorporated as a part of these rules, to the extent same be applicable and pertinent, the provisions of R.S. 49:951 et seq., the Administrative Procedure Act, as amended.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), Section 307(a)(5) and 45 CFR 1321.43(e).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2207 (November 1999).

§1267. Hearing Procedures for Area Agencies

- A. Purpose. The purpose of this Section is to establish procedures that Governor's Office of Elderly Affairs (GOEA) will follow to provide due process to affected AAAs whenever GOEA initiates particular types of action or proceedings.
- B. Right to a Hearing. GOEA shall provide affected AAAs reasonable notice and opportunity for a hearing whenever GOEA initiates an action or proceeding to:
1. revoke the designation of an AAA;
 2. designate an additional planning and service area in the state;
 3. divide the state into different planning and service areas; or
 4. otherwise affect the boundaries of the planning and service areas in the state.
- C. Notice of Proposed Action
1. The Governor's Office of Elderly Affairs shall issue a written notice to the area agency which shall include:
 - a. a statement of the proposed action;
 - b. a short and plain statement of the reasons for the proposed action and the evidence on which the proposed action is based; and
 - c. a reference to the particular Sections of statutes, regulations, and rules involved.
 2. The notice shall be sent by registered or certified mail, return receipt requested.
- D. Request for Hearing
1. The request for hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the proposed action.
 2. A request for hearing must be in writing and must state with specificity the grounds upon which the proposed action is appealed and all grounds upon which petitioner refutes the basis of the proposed action. The request must include:
 - a. the dates of all relevant actions;
 - b. the names of individuals or organizations involved in the proposed action;
 - c. a specific statement of any Section of the Act or regulations believed to have been violated;
 - d. a certified copy of the minutes or resolution in which petitioner's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or

organization. The minutes or resolution shall indicate adoption by a majority of the quorum of the governing body of the agency or organization; and

- e. a request for a transcript of the hearing, if desired.

E. Notice of Hearing

1. Upon receipt of a request for hearing the director shall, within 10 days, set a date for the hearing.
2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner and interested persons which shall include:
 - a. a statement of time, date, and location of the hearing;
 - b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. a reference to the particular Sections of statutes, regulations, and rules involved; and
 - d. a short and plain statement of the reasons for the proposed action that is being appealed and the evidence on which the proposed action is based.
3. Petitioner and other parties shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

F. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing subject to the provisions of R.S. 49:960. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the Governor's Office of Elderly Affairs or petitioner.

G. Rules of Evidence

1. In hearings, under these rules, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.
2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.
3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.

4. Either party may conduct cross-examination required for a full and true disclosure of the facts.
 5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of the Governor's Office of Elderly Affairs specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of the Governor's Office of Elderly Affairs and its staff may be utilized in evaluating the evidence.
 6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.
- H. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or their representatives shall be governed by R.S. 49:960.
- I. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956(5)-(8).
- J. Hearing
1. Petitioner shall open and present its evidence to establish its position on the matters involved. Interested persons shall follow and present their evidence; then the Governor's Office of Elderly Affairs shall present its evidence. Petitioner may thereafter present rebuttal evidence only, such evidence to be confined to issues raised in petitioner's opening presentation and Governor's Office of Elderly Affairs following presentation or that of others. Petitioner shall be given the opportunity to offer final argument, but no additional presentation of evidence.
 2. The hearing shall be completed within 120 days of the date the request for hearing was received.
- K. Transcript. The proceedings of the hearing shall be transcribed on request of any party or person. The cost of transcription will be borne by the person requesting the transcript, unless otherwise provided by law. The Governor's Office of Elderly Affairs may require a deposit in the form of a certified check or cashier's check in an amount reasonably determined by the Governor's Office of Elderly Affairs to be adequate to cover all costs

of transcription. In the event that transcription is not requested, the Governor's Office of Elderly Affairs, at its option, may produce a summary record of the proceedings of the hearing; provided that if such a summary record is produced by Governor's Office of Elderly Affairs, it shall provide the area agency with notice of the fact that such summary record was prepared and with the opportunity to copy or inspect same.

L. Final Decision

1. All final decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. The area agency shall comply with the final decision. A copy of the decision shall be sent immediately to the parties by registered or certified mail, return receipt requested.
2. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

M. Record. The record in a hearing under these rules includes:

1. all pleadings, motions, and intermediate rulings;
2. evidence received or considered, or a resume thereof if not transcribed, except matters so obvious that a statement of them would serve no useful purpose;
3. a statement of matters officially noted;
4. offers of proof, objections and rulings on them;
5. proposed findings and exceptions; and
6. any decision, opinion, or report by the hearing examiner presiding at the hearing.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2208 (November 1999).

§1269. Hearing Procedures for Applicants for Planning and Service Area Designation

- A. Purpose. The Governor's Office of Elderly Affairs is required to provide an opportunity for a hearing to any qualified applicant for designation as a planning and service area (PSA) whose application is denied by the Governor's Office of Elderly Affairs.
- B. Right to a Hearing. The Governor's Office of Elderly Affairs shall provide an opportunity for a hearing, and issue a written decision to any unit of general purpose local government; region within the state recognized for purposes of area wide planning which includes one or more such units of general purpose local government; metropolitan area; or Indian reservation whose application for designation as a planning and service area is denied.
- C. Request for Hearing

1. The request for a hearing must be received by the Governor's Office of Elderly Affairs within 30 days following petitioner's receipt of the notice of the adverse decision.
2. A request for hearing must be in writing and must state with specificity the grounds upon which the Governor's Office of Elderly Affairs decision is appealed and all grounds upon which petitioner refutes the basis of the adverse decision. The request must include:
 - a. the dates of all relevant actions;
 - b. the names of individuals or organizations involved in the action;
 - c. a specific statement of any Section of the Act or regulations believed to have been violated;
 - d. a certified copy of the minutes or resolution in which the applicant's governing body requests a hearing and authorizes a person or persons to act in behalf of the agency or organization. The minutes or resolution shall indicate adoption by a majority of a quorum of the governing body of the agency or organization; and
 - e. a request for a transcript of hearing, if desired.
3. Petitioners shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Notice of Hearing

1. Upon receipt of a request for hearing, the director shall, within 10 days, set a date for the hearing.
2. The Governor's Office of Elderly Affairs shall issue a written notice to the petitioner, which shall include:
 - a. a statement of time, date, location, and nature of the hearing;
 - b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. a reference to the particular Section of statutes, regulations, and rules involved; and
 - d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based.
3. If the Governor's Office of Elderly Affairs is unable to state in detail the evidence and reasons for the decision at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished not less than three days prior to the date set for the hearing.
4. Petitioner shall be given no less than 10 days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

- E. Hearing Examiner. The director or his designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:960. The hearing examiner shall conduct the hearing in an orderly fashion and in accordance with the procedures outlined herein. It is the responsibility of the hearing examiner to fully consider information relevant to the complaint and draft a fair decision based on such information.
- F. Rules of Evidence. The rules of evidence for hearings held under §1269 of this manual shall be as provided in §1267.G.
- G. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his representative shall be governed by R.S. 49:960, the Administrative Procedure Act.
- H. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Administrative Procedure Act.
- I. Hearing. The procedure to be followed for hearings held under §1269 shall be as provided in §1267.J.
- J. Transcript. The rules governing transcripts for hearings held under §1269 shall be as provided in §1267.J.
- K. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested.
- L. Rehearing. Procedures for rehearings shall be governed by R.S. 49:959.
- M. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.
- N. Appeal to Assistant Secretary for Aging. Any eligible applicant for PSA designation, whose application has been denied, and who has been provided a written decision by the GOEA, may appeal the denial to the Assistant Secretary for Aging in writing within 30 days following receipt of the state agency's decision. Such appeal shall be governed by the procedures outlined in the federal regulations issued by the Assistant Secretary for Aging.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(b)(1), (4), and 45 CFR 1321.47.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 25:2210 (November 1999).

§1271. Hearing Procedures for Service Providers and Applicants

- A. Purpose. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to service providers or applicants to provide

services whose application under an area plan is denied or whose contract is terminated or not renewed.

B. Right to a Hearing. Any service provider or applicant to provide services whose application under an area plan is denied or whose contract is terminated or not renewed, except as provided in 45 CFR Part 74, Subpart M, may request a hearing by GOEA on such action after all hearing procedures of the area agency on aging (AAA) have been exhausted.

C. Request for Hearing

1. A petitioner must request the hearing from GOEA within 30 days following receipt of the AAA's final action letter.
2. The request for the hearing shall be in writing and must state with specificity all grounds upon which petitioner refutes the basis of the action. The notice must include:
 - a. a copy of the AAA's action letter;
 - b. the dates of all relevant actions;
 - c. the names of individuals and organizations involved in the action appealed;
 - d. a citation of any provision of the Older Americans Act or accompanying regulations believed to have been violated by the AAA in taking the action appealed; and
 - e. a certified copy of the resolution by which, or of minutes of the meeting at which, the petitioner's governing body authorized the appeal; and
 - f. designation of one or more persons to represent it during the appeal, both by majority vote of a quorum of the governing body.

D. Submission of Hearing

1. The AAA, upon written request from GOEA, shall furnish copies of the following documents to the GOEA:
 - a. the minutes of the meeting of the AAA's governing body at which the subject action was considered and taken;
 - b. the minutes of the meeting of the AAA's advisory council at which the subject action was considered and recommended;
 - c. area agency memoranda, staff reports, and evaluations relevant to the action appealed;
 - d. the criteria used in awarding the contract involved in the hearing; and
 - e. the petitioner's application for the contract involved in the hearing.
2. No additional evidence may be admitted on the hearing unless the director of GOEA requests it or schedules an evidentiary hearing under §1271.E.

E. Evidentiary Hearing

1. If the director of GOEA determines that a hearing involves a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, he/she may schedule a hearing to take testimony. The director shall provide all parties at least 10 working days notice of the date, place, and time of the hearing. Said notice shall be sent by registered or certified mail, return receipt requested. The notice shall include a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.
2. The director may serve as the hearing examiner, or may appoint an impartial hearing examiner to preside at the hearing. The hearing examiner shall have the powers described in §1267.F.
3. The rules of evidence described in §1267.G shall apply to an evidentiary hearing under this Section.
4. The hearing examiner shall make a record of the evidentiary hearing in accordance with §1267.M.
5. The rules pertaining to evidence, ex parte consultations, depositions, hearings and transcripts shall be as provided in Subsections G, H, I, J, and K of §1267, respectively.

F. Final Decision

1. The director shall decide all hearings under this rule but may direct a GOEA employee to make an initial review and recommend a decision.
2. The director shall decide the hearing solely on the basis of the record. The director shall not substitute his/her judgment for that of the AAA as to the weight of the evidence on matters committed to the AAA's discretion. The director shall affirm the action heard unless it is unlawful, arbitrary, or not reasonably supported by substantial evidence in the record.
3. The director shall render a final decision on the hearing in writing within 120 days after receipt of the notice of appeal. The director shall send a copy of the final decision to each party by registered or certified mail, return receipt requested, within three days after it is rendered.

G. Rehearing. Procedures for rehearing and appeal shall be governed by R.S. 49:959 and 965.

H. Record. The record for the hearing under this rule shall consist of the material listed in §1267.M.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:618 (June 1985), amended LR 11:1078 (November 1985), LR 26:79 (January 2000).

§1273. Hearing Procedures for Persons Filing Grievances with the Office of the State Long Term Care Ombudsman

- A. Right to a Hearing. The Governor's Office of Elderly Affairs (GOEA) shall provide an opportunity for a hearing and issue a written decision to any person filing a formal grievance with the Office of the State Ombudsman pursuant to §1229.L.3.b. or to the ombudsman against whom the grievance was filed, whenever either party disagrees with the decision rendered by the State Ombudsman pursuant to LAC 4:VII.1229 L.3.f or L.5.b.iii.
- B. Request for Hearing
1. A request for hearing must be received by GOEA within 30 days following petitioner's receipt of the notice of the State Ombudsman's decision.
 2. A request for hearing must be in writing and must state with specificity the grounds upon which the State Ombudsman's decision is appealed. The request must include:
 - a. the dates of all relevant actions;
 - b. the names of individuals or organizations involved in the action;
 - c. a specific statement of any laws or regulations believed to have been violated; and
 - d. all grounds upon which petitioner refutes the State Ombudsman's decision.
- C. Notice of Hearing
1. Upon receipt of a request for hearing, the director shall, within 10 working days, set a date for the hearing.
 2. GOEA shall issue a written notice to the petitioner and other interested persons which shall include:
 - a. a statement of time, date, exact physical location (to include street address and city), and nature of the hearing;
 - b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. a reference to the particular Section of statutes, regulations, and rules involved;
 - d. a short and plain statement of the reasons for the decision that is being appealed and the evidence on which the decision was based; and
 - e. a statement that with agreement of all affected parties, hearings may be conducted by telephone conference or other electronic means.

3. Petitioner shall be given no less than 10 working days notice of the scheduled hearing. Notice shall be sent by registered or certified mail, return receipt requested.

D. Hearing Examiner

1. The director or his/her designated representative shall be the hearing examiner and preside at the hearing, subject to the provisions of R.S. 49:950 et seq. The hearing examiner shall have authority to administer oaths, rule on motions and the admissibility of evidence, to recess any hearing from time to time, and rule on such other procedural motions as may be presented by the State Ombudsman or the petitioner.
2. The hearing examiner shall conduct the hearing in accordance with the procedures outlined herein and render a fair decision. In rendering his/her decision, the hearing examiner shall consider:
 - a. all information relevant to the complaint;
 - b. the provision of Section 307 (a) (12) of the Older Americans Act which requires the State Ombudsman or his/her representatives to "investigate and resolve complaints made by or on behalf of older individuals who are residents of long term care facilities relating to action, inaction or decisions...which may adversely affect the health, safety, welfare or rights of such residents"; and
 - c. R.S. 2010.4 (D), which states, "No representative of the Office of the State Ombudsman will be liable under state law for the good faith performance of official duties as defined by state and federal laws and regulations."

E. Rules of Evidence

1. The rules of evidence as applied in civil cases in the district courts of this state shall be followed. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible there under may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record.
2. Documentary evidence may be received by the hearing examiner in the form of a copy or excerpt if the original is not readily available. On request, either party shall be given an opportunity to compare the copy with the original.
3. If a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form or the parties may stipulate as to facts or circumstances or summarize same.
4. Either party may conduct cross-examination required for a full and true disclosure of the facts.

5. Official notice may be taken by the hearing examiner of all facts judicially cognizable. In addition, notice may be taken of generally recognized facts within the area of GOEA's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data; and afforded an opportunity to contest the material so noticed. The special skills or knowledge of GOEA and its staff may be utilized in evaluating the evidence.
6. Formal exceptions to rulings of the hearing examiner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the hearing examiner, the action desired. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof.
- F. Ex Parte Consultations. Communications between the hearing examiner and any party or interested person or his/her representative shall be governed by R.S. 49:950 et seq. the Administrative Procedure Act.
- G. Depositions and Subpoenas. The taking and use of depositions and the issuance of subpoenas shall be governed by R.S. 49:956 (5)-(8) of the Administrative Procedure Act.
- H. Hearing. The procedure to be followed for hearings held under §1273 shall be as provided in Subsection 1267.J.
- I. Transcript. The rules governing transcripts for hearings held under §1273 shall be as provided in Subsection 1267.K.
- J. Final Decision. All decisions shall be in writing and shall be rendered and acted upon by the director within 60 days of the close of the hearing. A copy of the decision shall be sent immediately to the applicant by registered or certified mail, return receipt requested. A copy of the decision shall also be sent to any other persons directly affected by the decision.
- K. Rehearing and Appeal. Procedures for rehearings and appeals shall be governed by R.S. 49:959 and 965.
- L. Record. The record in a hearing under this Section shall consist of the materials listed in §1267.M.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.11(a), published in the Federal Register/Vol. 53, No. 169/Wednesday, August 31, 1988.

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SUBCHAPTER G: DRUG TESTING EMPLOYEES

§1281. Definitions

Controlled Substance—a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substance Act (21 U.S.C. 812).

Designer (Synthetic) Drugs—those chemical substance that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee—unclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g., full time, part time, temporary, etc.).

Illegal Drug—any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

Reasonable Suspicion—belief based upon objective an articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive and Security-Sensitive Positions—all positions with duties that may either authorize or require the operation or maintenance of a public vehicle, or the supervision of such an employee. All positions with duties that may require responsibility for or access to confidential or classified information.

Under the Influence—for the purposes of this policy, a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical in maintaining balance. A professional opinion or a scientifically valid test can establish a determination of influence.

Workplace—any location on agency property including all property, offices and facilities (including all vehicles and equipment) whether owned, leased or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MFJ 98-38 and R.S.49:1015 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Office Elderly Affairs, LR 28:2510 (December 2002).

§1283. Policy Provisions

A. General Provisions

1. It shall be the policy of the Governor's Office of Elderly Affairs to maintain a drug-free workplace and a workforce free of substance abuse. Employees are prohibited from reporting for work or performing work for the Agency with the presence of illegal drugs, controlled substances, or designer (synthetic) drugs in their bodies at the initial testing levels and confirmatory testing levels or above the levels as established in the contract between the state of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty, or on call for duty.
2. The agency will procure employee drug testing services through the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws.

B. To assure maintenance of a drug-free workforce, it will be the policy of the Governor's Office of Elderly Affairs to implement a program of drug testing under the following conditions.

1. Reasonable Suspicion. Any employee will be required to submit to a drug test if there is a reasonable suspicion (as defined in this policy) that the employee is using drugs.
2. Post-Accident. Each employee involved in an accident which occurs during the course of employment will be required to submit to a drug test if the accident:
 - a. involves circumstances leading to a reasonable suspicion of the employee's drug use;
 - b. results in a fatality; or
 - c. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

C. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or has a rehabilitation agreement with the agency following an incident involving substance abuse will be required to submit to random drug testing once every six months until the agency receives documented proof of a release from treatment by the physician or program director.

D. Pre-Employment. Each prospective employee, appointee, and all other persons beginning an employment relationship with the agency will be required to submit to drug screening at the time and place designated by the agency representative who administers the drug

testing program, following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening shall be eliminated from consideration for employment.

- E. Safety-Sensitive and Security-Sensitive Positions. These positions are identified within the agency by the appointing authority of the Governor's Office of Elderly Affairs and determined to be safety or security-sensitive after consultation with Louisiana Department of Justice.
- F. Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position (as defined in this policy) may be required to pass a drug test before being placed in such a position, whether through appointment or promotion.
- G. Random Testing. Every employee in a safety-sensitive or security-sensitive position will be required to submit to drug testing as required by the appointing authority, who will periodically call for a sample of such employees, selected at random by a computer-generated selection process, and require them to report for testing. All such testing will, if practicable, occur during the selected employee's work schedule.
- H. Confidentiality. All information, interviews, reports, statement, memoranda, and/or test results received by the executive agency through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.
- I. Drug Test Failures. Pursuant to R.S. 49:1008, if a prospective employee tests positive for the presence of drugs in the initial drug screening, the positive drug test result shall be the cause of the prospective employee's elimination from consideration for employment or appointment.
 - 1. Pursuant to R.S. 49:1011, the Office of Elderly Affairs will afford an employee whose drug result is certified positive by the medical review officer, the opportunity to undergo rehabilitation without termination of employment. All rehabilitation must be programs that are approved and listed by the Officer of Alcohol and Drug Abuse for state agencies.
 - 2. An employee whose drug tests results are certified positive will be required to take 30 days leave either as annual (A) or sick (B) leave. All rehabilitation services or assistance will be conducted at the employee's expense. The employer is not responsible for the expenses accrued.
 - 3. Failure to submit to drug testing or rehabilitation services may be reason for termination of employment with agency.

4. The Office of Elderly Affairs is committed to maintaining workplace free of harassment and intimidation for all its employees, and will not tolerate inappropriate actions regarding drug testing and confidential drug testing information. This includes conduct, which has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.
- J. Responsibility. The Executive Director of the Governor's Office of Elderly Affairs is responsible for the overall compliance with this policy and will submit to the Office of the Governor, through the Commissioner of Administration, a report on the policy and drug testing program, describing process, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.
- K. Violation of the Policy. Violation of this policy, including refusal to submit to drug testing when properly ordered to do so, will result in actions up to and including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public.

AUTHORITY NOTE: Promulgated in accordance with Executive Order MFJ 98-38 and R.S. 49:1015 et seq.

HISTORICAL NOTE: Promulgated by Office of the Governor, Office Elderly Affairs, LR 28:2510 (December 2002).

CHAPTER 13: STATE PLANNING ON AGING

§1301. State Plan on Aging

- A. To receive funding from the Older Americans Act the State Agency on Aging must have an approved State Plan on Aging. This plan must be on file with the Administration on Aging and be available for public review. At the minimum, the plan must include:
 1. identification by the state of the sole state agency that has been designated to develop and administer the plan;
 2. statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the commissioner through the rulemaking process;
 3. a resource allocation plan indicating the proposed use of all Title III funds administered by the state agency and the distribution of Title III funds to each planning and service area;
 4. Identification of the geographic boundaries of each planning and service area and of area agencies on aging;

5. prior federal fiscal year information related to low income minority and rural older individuals;
6. all assurances and provisions as outlined in the Older Americans Act and regulations, as well as the following assurances:
 - a. preference is given to older persons in greatest social or economic need in the provision of services under the plan;
 - b. procedures exist to ensure that all services under this part are provided without use of any means tests;
 - c. all services provided under Title III meet any existing state and local licensing, health and safety requirements for the provisions of those services;
 - d. older persons are provided opportunities to voluntarily contribute to the cost of services;
 - e. other such assurances as are needed for compliance with the Act, regulations, other applicable federal law, state statutes, and/or state policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1610 (August 2000), LR 30:1695 (August 2004)) LR 35:662 (April 2009).

§1303. Development of the State Plan

- A. The state agency will develop a state plan according to the following:
 1. elect to utilize a one-, two-, three-, or four-year format for the state plan;
 2. develop a data profile on the older Louisianans from available census data;
 3. conduct statewide needs assessment activities including, but not limited to, public hearings;
 4. assurances for state and area agencies on aging as set forth by the Older Americans Act;
 5. goals and objectives;
 6. publicize public hearing(s) giving dates, times, locations to public officials and other interested parties for their participation;
 7. conduct public hearings and incorporate written and verbal comments into the revised plan, as appropriate;
 8. submit final revised plan for approval by the governor;

9. submit approved plan from the governor to the Administration on Aging Regional Office for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 15:263 (April 1989), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1611 (August 2000), LR 30:1696 (August 2004) LR 35:662 (April 2009).

§1305. Intrastate Funding Formula

A. Intrastate Funding Formula

1. The following is a descriptive summary of the current Intrastate Funding Formula's assumptions and goals, and the application of the definitions of greatest economic or social need and a demonstration of the allocation of funds, pursuant to the formula, to each PSA.
2. Descriptive Statement
 - a. The current intrastate funding formula for the distribution of Older Americans Act Title III funds in Louisiana provides for a base allocation by parish. The following factors are considered in the distribution of funds remaining after base allocations are made: population aged 60 and over; population aged 60 and over below the Bureau of the Census poverty threshold; population aged 75 and over; and land area in square miles. Each of these factors is derived by dividing the planning and service area total by the state total.
 - b. Population aged 60 and over, and land area in square miles is assigned weights of one each. Population aged 60 and over below the Bureau of the Census poverty threshold is assigned a weight of nine-tenths. Population aged 75 and over is assigned a weight of one-tenth. The sum of these four factors is three.
 - c. Those elderly in greatest economic need are defined as persons aged 60 and older whose incomes are at or below the poverty threshold established by the Bureau of the Census. Those elderly in greatest social need are defined as persons aged 60 and over who have needs based on noneconomic factors such as social isolation caused by living in remote areas, or who are especially vulnerable due to the heightened possibility of frailty among elderly aged 75 and older. Other social needs are those, which restrict an elderly individual's ability to perform normal daily tasks, or which restrict his or her ability to live independently; they can be caused by racial or ethnic status, or language barriers. The intrastate funding formula accounts for these individuals by not allocating funds solely on the basis of population. The land area in square miles factor is included to compensate area agencies serving predominantly rural areas for the special problems encountered by sparse populations who may be

- spread over large geographical areas. The four funding factors combine to meet the special needs of socially and economically needy elderly, urban elderly and rural elderly.
- d. The base funding allocation of \$12,000 per parish is established on the assumption that this amount represents a minimum allocation for the administration of Older Americans Act programs. There is an increasing need to provide a continuum of care for the very old (aged 75 and older) as this segment of the population gets larger each year. Funding limitations dictate that this group is given special emphasis.
3. Numerical Statement of the Intrastate Funding Formula
- a. Base Allocation per PSA: \$12,000 per parish
- b. Formula Allocation per PSA:

	Factors	Weight
i.	<u>PSA 60+ Population</u> State 60+ Population	1.0
ii.	<u>PSA 60+ Population below Poverty Threshold</u> State 60+ Population below Poverty Threshold	0.9
iii.	<u>PSA Land Mass in Square Miles</u> State Land Mass in Square Miles	1.0
iv.	<u>PSA 75+ Population</u> State 75+ Population	<u>0.1</u>
v.	Sum	3.0

4. $PSA \text{ FORMULA} = (i) \times 1 + (ii) \times 0.9 + (iii) \times 1 + (iv) \times 0.1$

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 11:342 (April 1985), amended LR 12:366 (June 1986), LR 12:511 (August 1986), LR 13:569 (October 1987), LR 17:1207 (December 1991), LR 19:1317 (October 1993), LR 23:1146 (September 1997), LR 26:1611 (August 2000), LR 30:1696 (August 2004) LR 35:662 (April 2009).

GLOSSARY

Access Assistance-A service that assists caregivers in obtaining access to the services and resources that are available with their communities. To the maximum extent practicable, it ensures that the individuals receive the services needed by establishing adequate follow-up procedures.

Activities of Daily Living (ADL)-Six activities of daily living without personal assistance, stand-by assistance, supervision, or cues: eating, dressing, bathing, toileting, transferring in and out of bed/chair, and walking.

Administration for Community Living (ACL)-ACL brings together the efforts and achievements of the Administration on Aging, the Administration on Intellectual and Developmental Disabilities, and the HHS Office on Disability to serve as the Federal agency responsible for increasing access to community supports, while focusing attention and resources on the unique needs of older Americans and people with disabilities across the lifespan.

Administration on Aging (AoA)-The principal agency of the U.S. Department of Health and Human Services designated to carry out the provisions of the Older Americans Act of 1965, as amended (42 U.S.C.A. §3001 et seq.).

Adult Day Care/Adult Day Health-Personal care for dependent elders in a supervised, protective, and congregate setting during some portion of a day. Services offered in conjunction with adult day care/adult day health typically include social and recreational activities, training, counseling, and services such as rehabilitation, medications assistance, and home health-aid services for adult day health.

Agency Executive/Management Staff-Personnel such as SUA director, deputy directors, directors of key divisions and other positions which provide overall leadership and direction for the state or AAA.

Area Agency on Aging (AAA)-An agency designated by the State Unit on Aging to develop and administer the area plan for a comprehensive and coordinated system of services for older persons in a planning and service area.

Area Plan-The application submitted by an AAA to receive Older Americans Act funds. Older Americans Act funds can be expended only under an area plan that has been approved by the State Unit on Aging.

Assisted Transportation-Assistance and transportation, including escort, to a person who has difficulties (physical or cognitive) using regular vehicular transportation.

Assistive Technology-Technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by older individuals with functional limitations.

Caregiver-An adult family member or another individual, who is an “informal” provider of in-home and community care to an older individual. “Informal” means that the care is not provided as part of a public or private formal service program.

Case Management-Assistance either in the form of access or care coordination in circumstances where the older person is experiencing diminished functioning capacities, personal conditions or other characteristics which require the provision of services by formal service providers or family caregivers. Activities of case management include such practices as assessing needs, developing care plans, authorizing and coordinating services among providers, and providing follow-up and reassessment, as required.

Child-An individual who is not more than 18 years of age or an individual 19-59 years of age who has a disability. The term relates to a grandparent or other older relative who is a caregiver of a child.

Chore-Assistance such as heavy housework, yard work, or sidewalk maintenance for a person.

Comprehensive and Coordinated System of Services-A system for providing all necessary supportive services, including nutrition services, in a manner designed to:

1. facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such systems by any public or private agency or organization;
2. develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals;
3. use available resources efficiently and with a minimum of duplication; and
4. encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the older individuals on a voluntary basis.

Congregate Meals-A meal provided to a qualified individual in a congregate or group setting. The meal as served meets all of the requirements of the Older Americans Act and State/Local laws.

Contract-An award of financial assistance by the Governor's Office of Elderly Affairs to an eligible recipient.

Counseling-Counseling to caregivers to assist them in making decisions and solving problems relating to their caregiver roles. This includes counseling to individuals, support groups, and caregiver training (of individual caregivers and families).

Direct Service-Any activity performed to provide services directly to an individual older person by the staff of a service provider or an AAA.

Director-The director of the Governor's Office of Elderly Affairs.

Disability-A disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in one or more of the following areas of major life activity:

1. self-care
2. receptive and expressive language
3. learning
4. mobility
5. self-direction
6. capacity for independent living
7. economic self-sufficiency
8. cognitive functioning
9. emotional adjustment

Elderly Client-An eligible (60 years of age or older or who is less than 60 and has a diagnosis of early onset dementia) elderly individual who receives OAA services.

Enrollee-An individual who is eligible to receive services and is paid wages for engaging in community service employment under a project.

Equipment-Tangible personal property with an acquisition cost equal to or greater than \$1,000 and a useful life of more than one year. All such property must be tagged.

Governor's Office of Elderly Affairs (GOEA)-The focal point on aging for the State of Louisiana, also referred to as the State Unit on Aging (SUA), "State Agency on Aging," or "state agency."

Grandparent or Older Individual Who Is a Relative Caregiver of a Child-A grandparent, step-grandparent, or other relative of a child by blood or marriage, who is 55 years of age or older and:

1. lives with the child;
2. is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and

3. has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

Grantee-An eligible organization which has entered into an agreement with the U.S. Department of Labor.

Greatest Economic Need-The need resulting from an income level at or below the official poverty guideline issued each year in the Federal Register by the Department of Health and Human Services.

Greatest Social Need-The need caused by noneconomic factors, which include:

1. physical and mental disabilities;
2. language barriers;
3. cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that:
 - a. restricts the ability of an individual to perform normal daily tasks; or
 - b. threatens the capacity of the individual to live independently.

Group Respite-Established social-model adult day service programs designed to provide a temporary break in the tasks of caregiving and offer information, education, and other supportive services. They also attempt to improve patients' cognitive and social abilities by providing a secure environment and opportunities to socialize.

Health Promotion and Disease Prevention-Services that include health screenings and assessments; organized physical fitness activities; evidence-based health promotion programs; medication management; home injury control services; and/or information, education, and prevention strategies for chronic disease and other health conditions that would reduce the length or quality of life of the person 60 or older.

High Nutritional Risk-An individual who scores six (6) or higher on the DETERMINE Your Nutritional Risk checklist published by the Nutrition Screening Initiative.

Home Delivered Meals-A meal provided to a qualified individual in his/her place of residence. The meal is served in a program administered by the SUA and/or AAA and meets all of the requirements of the Older Americans Act and State/Local laws.

Homemaker-Assistance such as preparing meals, shopping for personal items, managing money, using the telephone or doing light housework.

Home Repair/Modification-Minor modification of homes necessary to facilitate the ability of older individuals to remain at home and not available to the client from other programs. Not

more than \$150 per client may be expended under this part for such modification. Services include installing grab bars in the bathroom or building a ramp.

Host Agency-A public agency or a private non-profit organization, other than a political party or any facility used or to be used as a place for sectarian religious instruction or worship and is exempt under 501(c)(3) of IRS Code, which provides a work site and supervision for an enrollee.

Immediate Family-Husband, wife, father, mother, sister, brother, son, daughter, grandmother, grandfather, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law.

Impairment in Activities of Daily Living (IADL)-The inability to perform one or more of the following eight instrumental activities of daily living without personal assistance, or stand-by assistance, supervision, or cues: preparing meals, shopping for personal items, medication management, managing money, using telephone, doing heavy housework, doing light housework, and transportation ability (transportation ability refers to the individual's ability to make use of available transportation without assistance).

Individual Care Support-Enables caregivers to choose a family member to provide temporary personal support, care, and companionship in the home of the qualifying individual on a temporary basis.

Individual Counseling-Services of a state licensed professional designed to increase the client's capability to care for the qualifying individual. These services are meant to provide short term training or therapy to develop critical skills. Persons providing this service must be licensed in the specific area in which training or consultation is being provided. The areas covered include, but shall not be limited to the following: social work, psychology, professional counseling, nursing, food and nutrition, occupational therapy, physical therapy, and speech pathology and audiology.

Information and Assistance-A service that:

1. provides individuals with information on services available within the communities;
2. links the individuals to the services and opportunities that are available within the communities;
3. to the maximum extent practicable, establishes adequate follow-up procedures. Internet web site "hits" are to be counted only if information is requested and supplied.

Information Services-A service for caregivers that provides the public and individuals with information on resources and services available to the individuals within their communities.

Legal Assistance-Provision of legal advice, counseling and representation by an attorney or other person acting under the supervision of an attorney.

Legal Assistance Development-Activities carried out by the state "Legal Assistance Developer" that are designed to coordinate and enhance state and local legal services and elder rights programs.

Living Alone-A one person household (using the Census definition of household) where the householder lives by his or herself in an owned or rented place of residence in a non-institutional setting, including board and care facilities, assisted living units and group homes.

Low-Income Minority-A person whose income is below the official poverty guideline as defined each year in the Federal Register by the Department of Health and Human Services and who is designated as African American, Not of Hispanic Origin; Hispanic; American Indian or Alaskan Native; or Asian American/Pacific Islander.

Material Aid-Issuing assistive devices and other goods (e.g., walkers, wheelchairs, fans, commodities, personal hygiene items).

Meal Site-A meal site is a place where older adults come together for congregate meals only and is under the direction of a GOEA Contractor/Subcontractor.

Mental Retardation and Related Developmental Disabilities-

1. a diagnosis of mental retardation. Mental retardation refers to significantly sub-average general intellectual function existing concurrently with deficits in adaptive behavior and manifested prior to age 22; or
2. a severe, chronic disability which is attributable to mental retardation, cerebral palsy, epilepsy or autism; or any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment of services similar to those required for these persons; the disability:
 - a. is manifested before the person reaches age 22;
 - b. is likely to continue indefinitely;
 - c. results in substantial functional limitations in three or more of the following areas of major life activity: self-care; understanding and use of language; learning; mobility; self-direction; capacity for independent living; economic self-sufficiency; and
 - d. reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated, except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have

substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

Minority-Minority older persons are confined to the following designations:

1. *American Indian or Alaskan Native*-A person having origins in any of the original peoples of North America (including Central America), and who maintains tribal affiliation or community recognition.
2. *Asian*-A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
3. *Black or African American*-A person having origins in any of the black racial groups of Africa.
4. *Hispanic or Latino*-A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
5. *Native Hawaiian or Other Pacific Islander*-A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Minority Provider-A provider of services to clients which meets any one of the following criteria:

1. A not for profit organization with a controlling board comprised at least 51% of individuals in the racial and ethnic categories listed below.
2. A private business concern that is at least 51% owned by individuals in the racial and ethnic categories listed below.
3. A publicly owned business having at least 51% of its stock owned by one or more individuals and having its management and daily business controlled by one or more individuals in the racial and ethnic categories listed below.

The applicable racial and ethnic categories include: American Indian or Alaskan Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, or Hispanic.

Mobile Day Care-Provided in communities where the staff and supplies move from a central location to sites throughout the area depending on available sites. Priority areas should target low-income rural elderly.

Nutrition Counseling-Individualized guidance to individuals who are at nutritional risk because of their health or nutrition history, dietary intake, chronic illnesses, or medications use, or to caregivers. Counseling is provided one-on-one by a registered dietician, and addresses the options and methods for improving nutrition status.

Nutrition Education-A program to promote better health by providing accurate and culturally sensitive nutrition, physical fitness, or health (as it relates to nutrition) information and

instruction to participants, care givers, or participants and caregivers in a group or individual setting overseen by a dietitian or individual of comparable expertise.

Nutrition Services Incentive Program (NSIP) Meals-A meal served in compliance with all the requirements of the OAA, which means at a minimum that:

1. it has been served to a participant who is eligible under the OAA and has NOT been means-tested for participation;
2. it is compliant with the nutrition requirements;
3. it is served by an eligible agency; and
4. it is served to an individual who has an opportunity to contribute.

Meal counts in 4, 4a, 8, 8a, include all OAA eligible meals including those served to persons under age 60 where authorized by the OAA. NSIP Meals also include home delivered meals provided as Supplemental Services under the National Family Caregiver Support Program (Title III-E) to person aged 60 and over who are either care recipients (as well as their spouses of any age) or caregivers.

Older Americans Act (42 United States Code Section 3001 et seq.)-Federal legislation, first passed in 1965, that authorizes grants to states for programs and services for the elderly.

Older Individual-An individual who is 60 years of age or older.

Other Paid Professional Staff-Personnel who are considered professional staff who are not responsible for overall agency management or direction setting but carry out key responsibilities or tasks associated with the state or AAA in the following areas:

1. *Planning*-Includes such responsibilities as needs assessment, plan development, budgeting/resource analysis, inventory, standards development and policy analysis.
2. *Development*-Includes such responsibilities as public education, resource development, training and education, research and development and legislative activities.
3. *Administration*-Includes such responsibilities as bidding, contract negotiation, reporting, reimbursement, accounting, auditing, monitoring, and quality assurance.
4. *Access/Care Coordination*-Includes such responsibilities as outreach, screening, assessment, case management, information and referral.
5. *Service Delivery*-Includes those activities associated with the direct provision of a service that meets the needs of an individual older person and/or caregiver.
6. *Clerical/Support Staff*-All paid personnel who provide support to the management and professional staff.

Outreach-Intervention with individuals initiated by an agency or organization for the purpose of identifying potential clients (or their caregivers) and encouraging their use of existing services and benefits.

Personal Care-Personal assistance, stand-by assistance, supervision or cues.

Personal Property-Property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence such as patents, copyrights, etc.).

Planning and Service Area (PSA)-A geographic area of the State designated by the State Unit on Aging for the purpose of planning, development, delivery, and overall administration of services under an area plan.

Poverty-Persons considered to be in poverty are those whose income is below the official poverty guideline (as defined each year by the Office of Management and Budget, and adjusted by the Secretary, DHHS) in accordance with subsection 673 (2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)). The annual HHS Poverty Guidelines provide dollar thresholds representing poverty levels for households of various sizes.

Program Income-Gross income received by the grantee and all sub-grantees such as voluntary contributions or income earned only as a result of the grant project during the grant period.

Project-An agreement between the project sponsor and an eligible organization which provides for the employment of eligible individuals and the delivery of services.

Project Sponsor-An eligible organization which has entered into an agreement with the U.S. Department of Labor.

Property-Real property, personal property, equipment, and supplies.

Provider-An organization or person which provides services to clients under a formal contractual arrangement with an AAA or SUA.

Qualifying Individual-The older individual or child receiving the care provided by the family caregiver or the grandparent or older individual who is a relative caregiver.

Real Property-Land, including improvements, structures, and appurtenances thereto.

Recipient-All recipients, including sub-recipients, of GOEA funds.

Registered Client-A registered client is an individual who received at least one unit of the following specified services within the reported fiscal year. The services include: congregate meals, nutrition counseling, assisted transportation, personal care, homemaker, chore, home delivered meals, adult day care/health, or case management. The count of registered clients does not include caregivers.

Respite Care-Services which offer temporary, substitute supports or living arrangements for care recipients in order to provide a brief period of relief or rest for caregivers. Respite Care includes:

1. in-home respite (personal care, homemaker, and other in-home respite);
2. respite provided by attendance of the care recipient at a senior center or other nonresidential program;
3. institutional respite provided by placing the care recipient in an institutional setting such as a nursing home for a short period of time as a respite service to the caregiver; and (for grandparents caring for children) summer camps.

Rural-A rural area is: any area that is not defined as urban. Urban areas comprise:

1. urbanized areas (a central place and its adjacent densely settle territories with a combined minimum population of 50,000 and
2. an incorporated place or a census designated place with 20,000 or more inhabitants.

Rural Provider-Providers of services to clients who live in rural areas. Rural providers are not necessarily providers of services only to rural clients. They may also be providers of services to clients in urban areas.

Senior Center-A community focal point where older adults come together for services and activities that reflect their experience and skills, respond to their diverse needs and interests, enhance their dignity, support their independence, and encourage their involvement in and with the center and the community. Senior centers offer services and activities within the center and link participants with resources offered by other agencies. Senior center programs consist of a variety of individual and group services and activities. Senior centers also serve as a resource for the entire community for information on aging, support for family care givers, training professionals, lay leaders, and students, and for development of innovative approaches to addressing aging issues.

Senior Center Satellite-An activity site which meets less than minimum standards required for a senior center and is under the direction of a GOEA Contractor/Subcontractor.

Service Provider-An entity awarded a subcontract from an AAA to provide services under the area plan.

Severe Disability-A severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that:

1. is likely to continue indefinitely; and

2. results in substantial functional limitation in three or more of the following areas of major life activity:
 - a. self-care;
 - b. receptive and expressive language;
 - c. learning;
 - d. mobility;
 - e. self-direction;
 - f. capacity for independent living;
 - g. economic self-sufficiency;
 - h. cognitive functioning; and
 - i. emotional adjustment.

Sitter Service-A service provided in a home setting to ensure the health and safety of the qualifying individual. It includes observing, conversing, providing food for the qualifying individual, etc.

State Unit on Aging-The State agency designated to develop and administer the State Plan on Aging and to be the focal point on aging in the State. The GOEA is the State Unit on Aging for Louisiana.

Subcontract-An award of financial assistance by an AAA to a service provider.

Sub-grantee-An eligible organization which has a contractual agreement with the grantee to deliver services on the local level. Potential providers are required to show proof of IRS classification 501(c)(3).

Subproject-An eligible organization which has a contractual agreement with the project sponsor to deliver services on the local level. Potential providers are required to show proof of IRS classification 501(c)(3).

Supplemental Services-Services provided on a limited basis to complement the care provided by caregivers. Examples of supplemental services include, but are not limited to, home modifications, assistive technologies, emergency response systems, and incontinence supplies

Supplies-Tangible personal property other than equipment.

Total OAA Expenditures-Outlays/payments made by the SUA and/or AAA's using OAA federal funds to provide an allowable service.

Total Service Expenditure-OAA expenditures plus all other funds administered by the SUA and/or AAA's on behalf of elderly individuals and caregivers for services meeting the definition of OAA services – both services which are means tested and those which are not.

Transportation-Transportation from one location to another. Does not include any other activity.

Unsubsidized Employment-Employment in the public or private sector where the former Senior Community Service Employment Program enrollee is not a participant in a federally funded employment and training program or in a volunteer position.

Volunteer-An uncompensated individual who provides services or support on behalf of older individuals. Only staff working under the AAA, not the AAA contractors, shall be included.