



Older Americans Act (OAA) Final Rule

Title III Select Topic Areas to Review for State Units on Aging (SUAs)

This document is intended to highlight certain noteworthy provisions of the Older Americans Act Final Rule for SUAs (and area agencies on aging [AAAs] in communication with their respective SUAs) to review as they begin implementation of the OAA Final Rule. The topic areas have been selected based on whether the OAA Final Rule established a new requirement, clarified an existing requirement, or modified an existing requirement. Please note that not all SUA or AAA responsibilities under the OAA Final Rule are reflected in this document, and SUAs and AAAs are responsible for ensuring compliance with all applicable federal requirements, including those articulated in the OAA Final Rule. This document serves as a tool to assist in implementation only; it is not a comprehensive list of all applicable requirements.

The vast majority of the items included in the OAA Final Rule are long-established OAA requirements – i.e., reaffirming what is in statute, prior regulations, or existing policies – rather than new requirements.

Older Americans Act Final Rule Title III Select Topic Areas to Review for State Units on Aging

| Section in Final Rule | Topic Area | Change Type (New, Clarification, Modification) | What Changed | Must the SUA Change Its Activities? (* indicates ACL anticipates some SUAs may already meet these provisions or may only need to make minor changes to comply) |
|------------------------|---|--|--|---|
| 1321.3 | Definitions | Modification | Greatest social need—The SUA’s definition must include all noneconomic factors listed, including other needs as defined by state and area plans | Yes, all SUAs* |
| 1321.3 | Definitions | Modification | In-home supportive services—The limitation of \$150 per client for home modifications is removed | Only if the SUA chooses to implement the expansions of this provision |
| 1321.9(c)(2)(ii)(C) | Non-Federal Share (Match) | Clarification | State or local public resources used to fund a program which uses a means test shall not be used to meet the match | Yes, all SUAs* |
| 1321.9(c)(2)(ii)(J)(1) | Non-Federal Share (Match) | Clarification | Prior written approval for unrecovered indirect costs to be used as match is granted | Only if the SUA chooses to implement the expansions of this provision |
| 1321.9(c)(2)(xii) | Use of Program Income | Modification | Program income collected must be used to expand a service funded under the Title III grant award pursuant to which the income originally was collected (e.g., Title III-B), this is a modification to the prior requirement that program income is limited to expanding the particular service for which it was collected (e.g., transportation) | Only if the SUA chooses to implement the expansions of this provision |
| 1321.9(c)(2)(xiv) | Contracts and Commercial Relationships | Clarification | SUAs must establish policies and procedures related to contracts and commercial relationships (CCR). As a component of these policies and procedures, and consistent with their authority under sections 305(a)(1)(C), 306(a), 306(b), and 212(b)(1), SUAs must establish processes for AAAs to receive prior approval for CCR permitted under section 212 of the Act. | Yes, all SUAs* |
| 1321.9(c)(2)(xv) | Buildings, Alterations or Renovations, Maintenance, and Equipment | Modification | Prior approval from ACL no longer required. A Notice of Federal Interest must be filed at the time of acquisition of a property or prior to construction, as applicable (consistent with section 312) | Only if the SUA chooses to implement the expansions of this provision |
| 1321.9(c)(2)(xix) | Fixed Amount Subawards | New | Fixed amount subawards up to the simplified acquisition threshold are allowed (as set forth in 2 Code of Federal Regulations [CFR] 200.333 and 45 CFR 75.353; for a definition of “simplified acquisition threshold” see 2 CFR 200.1 and 45 CFR 75.2) | Only if the SUA chooses to implement the expansions of this provision |

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| 1321.13, 1321.31 | Designation of and Designation Changes to Planning and Service Areas (PSA) | New | A state plan on aging or state plan on aging amendment must provide an explanation of consideration of listed factors regarding a PSA designation change | Only if the SUA chooses to make PSA designation changes |
| 1321.15 | Interstate PSA | Clarification | SUAs must review and confirm an interstate PSA agreement as part of their state plan on aging | Only for SUAs* who are a party to an interstate planning and service area |
| 1321.17, 1321.23, 1321.39, 1321.43 | Appeals | Modification | Appeals regarding PSA designation, AAA designation, state plans on aging, and Departmental Appeals Board (DAB) decisions must follow specified processes | Only for SUAs* who are a party to an appeal of a specified action |
| 1321.19, 1321.31 | Designation of and Designation Changes to AAAs | Modification | SUAs must submit a state plan on aging or state plan on aging amendment when making AAA designation changes | Only if the SUA makes AAA designation changes |
| 1321.27 | Content of State Plans | New | SUAs must describe how greatest social need and greatest economic need are determined, addressed, and targeted consistent with the definition at 1321.3; demonstrate greatest social need and greatest economic need specific to Native American persons is identified pursuant to communication among the SUA and tribes, tribal organizations, and Native communities where there are older Native Americans; and explain how services are coordinated with Title VI-funded services | Yes, all SUAs* |
| 1321.27 | Content of State Plans | Clarification | Details of proposals to pay for program development and coordination as a cost of Title III—part B must be made available to the general public for review and comment as part of state and area plans on aging | Only if the SUA chooses to implement this clarified provision |
| 1321.27, 1321.87 | Content of State Plans | New | State plans must contain information about if the SUA allows for Title III, part C-1 funds to be used for shelf-stable, pick-up, carry-out, drive-through, or similar meals | Only if the SUA chooses to implement the expansions of this provision |
| 1321.27, 1324.201 | Content of State Plans | New | State plans must include how the SUA will use Title VII—chapter 3 prevention of elder abuse, neglect, and exploitation funds | Yes, all SUAs* |

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|--------------------------------------|--|--|---|--|
| 1321.27, 1324.303 | Content of State Plans | New | State plans must include how the SUA will meet Legal Assistance Developer (LAD) responsibilities | Yes, all SUAs* |
| 1321.29 | Public Participation | Modification | SUAs must establish a reasonable minimum time period (30 calendar days or greater, except in the case of a waiver from the Assistant Secretary for Aging (ASA)) for public review and comment on new state plans and state plan amendments requiring ASA approval | Yes, all SUAs* |
| 1321.33 | Submission of the State Plan or Plan Amendment to the Assistant Secretary for Aging for Approval | Modification | State plans must be submitted 90 days in advance of the proposed effective date of the plan or plan amendment, except in the case of a waiver by the ASA, and a draft must be submitted to the appropriate ACL Regional Office at least 120 calendar days in advance of the proposed effective date of the plan or plan amendment | Yes, all SUAs* |
| 1321.49 & 1321.51(b) | Intrastate Funding Formula (IFF) and Funds Distribution Plans | Modification | State plans must include IFF and funds distribution plan details, and SUAs must establish a reasonable minimum time period (30 calendar days or greater, except in the case of a waiver from the ASA) for public review and comment on IFF or funds distribution plan changes | Yes, all SUAs* |
| 1321.47 & 1321.67 | Conflict of Interest (COI) Policies | Modification | SUAs & AAAs must have COI policies and procedures to address the individual and organizational COIs listed, to document mitigation strategies when a SUA or Title III-funded program operates an Adult Protective Services (APS) or guardianship program, and to include at least periodic (i.e., annual) COI reviews | Yes, all SUAs* |
| 1321.53, 1321.69, 1321.95 & 1321.103 | SUA, AAA & Service Provider Title III and VI Coordination | New | State plans must explain how the state's aging network, including AAAs & service providers, will coordinate with Title VI programs, including in emergencies and disasters | Yes, all SUAs* |
| 1321.63 | AAA Advisory Council | Clarification | The AAA's advisory council must be separate from its board of directors | Yes, all SUAs* |

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| 1321.65 | Area Plans | New | Area plans must describe how individuals with greatest economic need and greatest social need are determined and served, consistent with the revised definition of greatest social need | Yes, all SUAs* |
| 1321.65 | Area Plans | New | AAAs must establish a reasonable minimum time period (30 calendar days or greater, except in the case of a waiver from the SUA) for public review and comment on new area plans and area plan amendments | Yes, all SUAs* |
| 1321.65 | Area Plans | New | Area plans must contain information if the AAA requests and the SUA allows for Title III, part C-1 funds to be used for shelf-stable, pick-up, carry-out, drive-through, or similar meals | Only if the SUA chooses to implement the expansions of this provision |
| 1321.93 | Legal Assistance | Clarification | SUAs and AAAs must meet requirements for contracting with legal assistance providers | Yes, all SUAs* |
| 1321.99 | Setting Aside Funds to Address Disasters | Clarification | SUAs may set aside up to 5% of total Title III allocations if specified in their IFF or funds distribution plan, or with prior approval of the ASA | Only if the SUA chooses to implement the expansions of this provision |
| 1321.101 | Flexibilities Under a Major Disaster Declaration (MDD) | Clarification | SUAs may exercise flexibilities if a state or Indian tribe requests and receives a MDD and if they exercise flexibilities, they must submit a state plan amendment | Only if the SUA chooses to implement the expansions of this provision |

Last Updated: 5/2024