



Administration for Community Living
U.S. Department of Health and Human Services

**A Listening Session on Today's Older
Americans Act . . . And Tomorrow's**

USAging Conference

July 12, 2022

OAA Flexibilities

- The Older Americans Act (OAA) inherently includes flexibility to best create and innovate policies to meet community needs including:
 - Internal Policies and Procedures;
 - Programmatic
 - Financial
 - Reporting
 - Eligibility Requirements;
 - Target Populations; and
 - Transfers

Questions to Ask on Flexibilities

- Is this an OAA law or regulation requirement?
- Is it an other federal law or regulation?
- Is this a state policy or procedure?
- Is this a AAA policy or procedure?
- Is this a local service provider policy or procedure?
- Who is responsible for the requirement?
- What are your options for change or advocating for change?

OAA Flexibilities - MDD

- Presidentially Approved Major Disaster Declaration (MDD) for COVID-19 under the Stafford Act
 - Existing flexibility in the OAA during times of MDD
 - MDD Fiscal Flexibilities for Title III and Title VII grants during the incident period*
 - “Bucketing” of services to provide disaster relief services during MDD*
 - Obligation under the MDD flexibilities, may be available until the obligation is liquidated or the obligation period ends*
- OAA-MDD flexibilities do not end when State and/or locally declared emergencies end

*SUAs determine implementation, policies, and procedures, in coordination with AAAs

OAA Flexibilities - PHE

- Flexibility provided in the FFCRA & CARES Acts for OAA nutrition services
- Public Health Emergency (PHE) for COVID-19 as Declared by the U.S. Secretary for Health and Human Services
 - Nutrition Transfer Limits Increased (100%)*
 - DRI/DGA Requirements Waived*
 - ACL Strongly Encourages Maintaining Nutritious Meals
- OAA-PHE flexibilities do not end when State and/or locally declared emergencies end

*SUAs determine implementation, policies, and procedures, in coordination with AAAs

Resources

- ACL COVID-19 Resources*
 - <https://acl.gov/covid19/aging-and-disability-networks>
- Fiscal FAQ: Major Disaster Declaration*
 - https://acl.gov/sites/default/files/common/AoA%20-%20Major%20Disaster%20Declaration%20Fiscal%20FAQ%20FINAL%204-8-2020_0.docx
- Funding Flexibilities*
 - https://acl.gov/sites/default/files/nutrition/SNP_FundingFlexibilities_2021OCT.pdf
- Nutrition and Aging Resource Center
 - <https://acl.gov/senior-nutrition/tips-guides>

*SUAs determine implementation, policies, and procedures, in coordination with AAAs

Where were you in 1988?

- **Highest Grossing Films:** Rain Man; Who Framed Roger Rabbit; Coming to America
- **Pulitzer Prize Winner:** Toni Morrison, for “Beloved”
- **Top Selling Single:** “Faith” by George Michael
- **Average price of gasoline:** \$.90/gallon



What didn't yet exist in 1988?

- The National Family Caregiver Support Program (Title III-E & Title VI Part C – not signed into law until 2000)
- The Americans with Disabilities Act (not signed into law until 1990)
- Widespread use of cell phones or the internet
- Any of the members of award-winning international boy band sensation, BTS
- And much more . . .



What is the difference between laws and regulations?

- Federal laws are bills that have passed both houses of Congress, been signed by the president, passed over the president's veto, or allowed to become law without the president's signature.
- Individual laws, also called acts (like the OAA), are arranged by subject in the United States Code.
- Regulations are rules made by executive departments and agencies (like ACL) and are arranged by subject in the *Code of Federal Regulations*.
- The Code of Federal Regulations (CFR) is a codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government (like ACL).

Adapted from

https://www.senate.gov/reference/reference_index_subjects/Laws_and_Regulations_vrd.htm

Order of Precedence on ACL OAA Notices of Award

This grant award is issued under Older Americans Act of 1965, as amended through P.L. 116-131, enacted March 25, 2020. The terms and conditions of this Notice of Award (NoA) and other requirements have the following order of precedence:

- (1) statute;
- (2) executive order;
- (3) program regulation;**
- (4) administrative regulation found in 45 CFR Part 75;
- (5) agency policies; and
- (6) Any additional terms and conditions and remarks on NoA.

The Older Americans Act (law)

[Read the compilation of the OAA of 1965, as amended through P.L. 116-131 \(3/25/2020\)](#)

The Older Americans Act (law)

- Title I — Objectives
- Title II — Administration on Aging
- Title III — Grants for State & Community Programs
- Title IV – Training, Research and Discretionary
- Title V – Senior Community Service Employment
- Title VI – Grants for Native Americans
- Title VII – Elder Rights Protection

Current OAA Regulations Notes

- The OAA has been reauthorized multiple times (1992, 2000, 2006, 2016, and 2020) since the current Title III & VI regulations were established:
 - Current regulations may not align with the current OAA law and current circumstances in the field
 - If there is a conflict between law and regulation, the law is what must be followed (for example, current regulations talk about the Commissioner instead of the Assistant Secretary for Aging)
 - For example, current regulations do not include NFCSP
 - In absence of valid and current regulations, there is potential for variation in the interpretation and implementation of the OAA

OAA Regulations Revision Process Steps

There are detailed processes ACL would need to follow:

1. ACL would engage in receiving feedback from States, Area Agencies on Aging, Local Service Providers, Tribes, Villages, and Tribal Organizations, and other aging network stakeholders

- While ACL might offer opportunities for verbal comments, such sessions must be open to all, and any verbal comments should be followed up with formal written comments

2. ACL is offering a Request for Information process in advance of issuance of a Notice of Proposed Rule Making (NPRM)

OAA Regulations Revision Process

Steps (cont.)

3. ACL would provide a formal opportunity for public review and comment of proposed regulations (Notice of Proposed Rule Making)
 - Written comments submitted as part of this formal process would be given more weight than comments provided outside of this formal process
4. ACL would issue a Final Rule with a timeframe for implementation
5. ACL would provide training and technical assistance on implementing any updates or changes to regulations

OAA Regulations Request for Information (RFI)

Published date: May 6, 2022

Access the RFI at:

<https://www.federalregister.gov/documents/2022/05/06/2022-09713/request-for-information-older-americans-act-regulations>

Submit feedback to: OAAregulations@acl.hhs.gov by 11:59 EST on Monday, June 6, 2022

RFI Response

- Over 90 respondents
- Respondents included national organizations, states, AAAs, service providers, and individuals
- ACL in process of reviewing and analyzing comments for consideration in NPRM

ACL Is Continuing to Receive Feedback

- Listening sessions like today
- Listening sessions at other conferences
 - While ACL might offer opportunities for verbal comments, such sessions must be open to all, and any verbal comments should be followed up with formal written comments

OAA Regulations Request for Information (RFI) (cont. 1)

ACL is seeking input from individuals and organizations regarding:

- supportive,
- nutrition,
- evidence-based disease prevention and health promotion,
- caregiver,
- legal,
- long-term care ombudsman, and
- other services

provided via states, tribes and tribal organizations, area agencies on aging, and local service providers under the Act.

OAA Regulations Request for Information (RFI) (cont. 2)

Specifically, we would like to learn from respondents based on their experience about:

- 1) challenges faced by older adults, elders, and family caregivers in receiving services under the Act, and
- 2) challenges faced by states, territories, tribes and tribal organizations, area agencies on aging and service providers in delivering services under the Act.

OAA Regulations Request for Information (RFI) (cont. 3)

We also seek feedback on how OAA programs can advance equity, in alignment with Executive Order 13985 *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*.

Access the Executive Order at:

<https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>

OAA Regulations RFI Webinar

Materials from the May 12 webinar on the Older Americans Act (OAA) Regulations Request for Information (RFI):

- [Video](#)
- [Transcript](#)
- [Slides](#)

OAA Regulations Considerations

- Have you reviewed the current regulations?:
 - Grants to State and Community Programs on Aging: [Older Americans Act Regulations \(1988\), 45 CFR Part 1321 \(Title III\)](#)
 - Grants for Indian Tribes for Support and Nutrition Services: [Older American Act Regulation \(1988\), 45 CFR Part 1322 \(Title VI\)](#)
 - Grants for Supportive and Nutritional Services to Older Hawaiian Natives: [Older American Act Regulations \(1988\), CFR Part 1323 \(Title VI\)](#)
 - Allotments for Vulnerable Elder Rights Protection Activities, including Subpart A – State Long-Term Care Ombudsman Program: [Older Americans Act Regulations \(2015\), 45 CFR Part 1324 \(Title VII\)](#)

OAA Regulations Considerations (cont.)

- Are there additions, deletions, or changes you would like to see to the current OAA regulations?
- Do your various stakeholders, or groups of which you are a member, have additions, deletions, or changes they would like to see to the current OAA regulations?
- Send your comments to OAAregulations@acl.hhs.gov (include “OAA Regulations” in the subject line of the message)

Questions?

**U.S. Department of Health and Human Services
Administration for Community Living**