

SUBCHAPTER 05C – ADMINISTRATIVE PROVISIONS

SECTION .0100 - NON-PLAN AREAS

10A NCAC 05C .0101 STAFFING

10A NCAC 05C .0102 APPLICATION SUBMISSION: REVIEW AND APPROVAL

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321; Eff. September 1, 1978; Amended Eff. May 1, 1990; Pursuant to G.S. 150B-21.3A, rules Expired June 1, 2015.

SECTION .0200 – DIVISION OF AGING

10A NCAC 05C .0201 PUBLIC HEARINGS

History Note: Authority G.S. 143B-10; 143B-138; 143B-181.1(c); 45 C.F.R., Chapter XIII, Part 1321; Eff. October 1, 1980; Pursuant to G.S. 150B-21.3A, rule Expired June 1, 2015.

10A NCAC 05C .0202 PUBLIC INFORMATION

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321; Eff. October 1, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015; Expired Eff. June 1, 2025 pursuant to G.S. 150B-21.3A.

10A NCAC 05C .0203 DESIGNATION OF PLANNING AND SERVICE AREAS

(a) Federal regulations mandate that the Division of Aging shall divide the entire State into distinct planning and service areas (PSAs) in accordance with prescribed regulations. In North Carolina, the Governor has designated, through Executive Order, 18 multi-county planning regions to coordinate and plan activities throughout North Carolina. The Division of Aging is utilizing areas with coterminous boundaries for North Carolina's aging planning and service areas. Thus, planning and service areas coincide with other multi-county planning efforts.

(b) Other units of general purpose local governments, region metropolitan area, Indian reservations, may apply to be designated as a planning and service area. Requests for PSA designation shall be received at least twelve months prior to the proposed effective date the organization wishes to begin serving as an area agency on aging.

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321; Eff. October 1, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

10A NCAC 05C .0204 DESIGNATION OF AGENCIES ON AGING

(a) The Division of Aging, in compliance with federal regulations, shall designate an area agency on aging in each planning and service area in which it decides to allocate funds under Title III of the Older Americans Act. In carrying out this process, the Division shall adhere to federal requirements for considering the types of organizations eligible to be an AAA and appeal procedures available to all eligible applicants.

(b) Currently, the Division of Aging has designated 18 area agencies, covering all PSAs in North Carolina. Such designation shall remain in effect unless Division assessments indicate that a designated organization is not in compliance with the requirements of the "Manual of Policies and Procedures" or does not submit an acceptable area plan or plan update.

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321; Eff. October 1, 1980; Amended Eff. April 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

10A NCAC 05C .0205 ALLOCATION OF FUNDS

(a) The Division of Aging shall allocate all appropriate funds received under the Older Americans Act, from the State, other federal agencies and any other source in accordance with criteria established by the Division. The criteria will include such factors as needs of the state's elderly, socioeconomic factors and other conditions which might impact on North Carolina's older population.

(b) The formula for allocation of federal funds shall be revised periodically. Information on the current formula may be obtained from: The Division of Aging, 693 Palmer Drive, 2101 Mail Service Center, Raleigh, North Carolina 27699-2101.

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321;
Eff. October 1, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

10A NCAC 05C .0206 APPLICATIONS FOR SUPPORT**10A NCAC 05C .0207 DIVISION OF AGING REVIEW OF APPLICATIONS**

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321;
Eff. October 1, 1980;
Amended Eff. April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;
Expired Eff. June 1, 2025 pursuant to G.S. 150B-21.3A.

10A NCAC 05C .0208 ADMINISTRATION

The Division of Aging requires all grantees and contractors to establish acceptable methods for administering Older Americans Act and related programs. The Division shall periodically monitor, assess and evaluate the administrative systems being utilized by grantees in order to assure that they meet minimal standards of operation.

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321;
Eff. October 1, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

10A NCAC 05C .0209 STANDARDS OF PERSONNEL ADMINISTRATION

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321;
5 C.F.R., Part 900;
Eff. October 1, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;
Expired Eff. June 1, 2025 pursuant to G.S. 150B-21.3A.

10A NCAC 05C .0210 AFFIRMATIVE ACTION

(a) The Division of Aging has developed (and revises as necessary) an affirmative action plan for equal employment opportunity. The affirmative action plan addresses minorities, women, physical handicapped and older persons in quantitative and qualitative terms.

(b) The Division of Aging requires that all Older Americans Act grantees have acceptable affirmative action plans consistent with criteria established by the Division, as a condition for approval of grant awards.

(c) Any area agency which is a public agency shall have an affirmative action program which complies with the requirements of Section 900.607 of Title 5 of the Code of Federal Regulations, Part 900, Subpart F, Standards for a Merit System of Personnel Administration.

(d) Older Americans Act project grantees shall, as a minimum, obtain a statement of assurance from subgrantees and subcontractors to providing equal opportunities in carrying out the activities funded under the Older Americans Act.

- (1) The statement of assurance shall be on file with the award document.
- (2) Project grantees must monitor subgrantees' and subcontractors' compliance with the equal employment opportunity requirements.

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321;
5 C.F.R., Part 900, Subpart F;

Eff. October 1, 1980;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

10A NCAC 05C .0211 PUBLICATIONS

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321; Eff. October 1, 1980; Amended Eff. April 1, 1990; Pursuant to G.S. 150B-21.3A, rule Expired June 1, 2015.

10A NCAC 05C .0212 CONFIDENTIALITY AND DISCLOSURE

10A NCAC 05C .0213 CODE OF CONDUCT

10A NCAC 05C .0214 504 HANDICAPPED PROVISIONS

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R. Part 84; 45 C.F.R. 1321.9; Eff. October 1, 1980; Amended Eff. April 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015; Expired Eff. June 1, 2025 pursuant to G.S. 150B-21.3A.

10A NCAC 05C .0215 DUTIES REGARDING DISCRIMINATION

10A NCAC 05C .0216 EMPLOYMENT DISCRIMINATION: PROCEDURES

History Note: Authority G.S. 143B-10; 143B-138; 143B-181.1; 45 C.F.R., Parts 80, 84, 91 and 1321; Eff. October 1, 1988; Amended Eff. April 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015; Expired Eff. June 1, 2025 pursuant to G.S. 150B-21.3A.

SECTION .0300 – AREA AGENCIES ON AGING

10A NCAC 05C .0301 AREA PLAN CONTENT

The Division shall periodically set forth the format, criteria for approval, and instructions for the development and submission of the area plan and for development and submission of annual updates to the area plan.

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321; Eff. October 1, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

10A NCAC 05C .0303 DIRECT SERVICE DELIVERY BY AN AAA

An area agency shall not deliver services directly unless it receives approval from the Division of Aging. An area agency proposing to deliver services for the aging directly shall notify the Division of Aging of its desire to do so by letter before submission of the area plan. The Division shall notify the area agency of its approval or disapproval by letter. The area plan subsequently submitted shall reflect the Division of Aging decision, including a description of how the area agency will deliver services directly if the division decides favorably on the request. If Division of Aging approval for direct delivery of services is granted, the AAA shall maintain such approval on file.

History Note: Authority G.S. 143B-10; 143B-138; 143B-181.1(c); 45 C.F.R., Chapter XIII, Part 1321; Eff. October 1, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

10A NCAC 05C .0304 PUBLIC HEARINGS ON AAA PLANS

(a) An AAA shall follow the area plan public hearing procedures required by the Division and the Older Americans Act federal regulations.

(b) In addition, the AAA shall apply the following standards in the conduct of its public hearing.

(1) Public notice shall be given at least two weeks before the hearing.

- (2) The public hearing shall be scheduled to allow sufficient time for review of the area plan by the advisory council prior to the date of the public hearing.
- (3) Notice of the public hearing shall be publicized through widely circulated newspapers or other forms of public media.
- (4) Notice of the public hearing shall be published in a language other than English, when deemed appropriate by the AAA or the Division of Aging.
- (5) Notice of the public hearing shall be provided to appropriate services providers, nutrition providers, organizations of older persons, and other public and private agencies in the planning and service area.
- (6) The public hearing shall be scheduled at a convenient time and location to ensure maximum attendance by interested parties, including representatives of advisory councils to the area agency and to the local nutrition projects and older persons.
- (7) A complete copy of the area plan shall be available for review by the general public at the office of the area agency prior to and after the public hearing.
- (8) Summaries of major components of the area plan, including a program description, objectives, action plans, and resource allocation plans, shall be available prior to and during the public hearing.
- (9) The formula or other methods used to distribute aging funds, within Division of Aging guidelines, among service providers shall be available at the public hearing.
- (10) Procedures for review and analysis of comments received at the public hearing shall be established and described in writing.
- (11) Summaries of the comments made at the public hearing shall be available at the office of the area agency after the public hearing.
- (12) All records of the public hearing shall be on file at the area agency as a part of the official area plan file.

History Note: Authority G.S. 143B-10; 143B-138; 143B-181.1(c); 45 C.F.R., Chapter XIII, Part 1321;

Eff. October 1, 1980;

Amended Eff. May 1, 1990;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

10A NCAC 05C .0305 AREA PLAN SUBMISSION: REVIEW AND APPROVAL

(a) The area plan, or annual updates, shall be submitted to the Division of Aging in accordance with the schedule and procedures established by the Division. In developing the area plan, the AAA shall allow sufficient time for the completion of the A-95 review process.

(b) The following schedule outlines the process for review and approval of area plans or annual updates:

- (1) The Division of Aging shall notify all AAAs at least 90 days before the area plan is due into the Division of Aging office. This notice shall include the transmittal of the required area plan format, the Division of Aging criteria for area plan approval and instructions for developing the area plan.
- (2) Area plans, whether for initial or continuation funding, are due into the Division of Aging 90 days prior to the beginning date of the planned funding period.
- (3) Division of Aging staff reviews, and requests for revisions in area plans when necessary, shall be completed 60 days before the beginning date of the planned funding period.
- (4) Final area plan revisions shall be submitted to the Division of Aging at least 40 days prior to the beginning date of the planned funding period.
- (5) A notification of grant award (NGA) shall be completed by the Division of Aging 15 to 20 days prior to the beginning date of the funding period.

(c) The Division of Aging shall assign a fiscal and program representative to serve as the contact within the Division for Area Agency on Aging communications and interrelationships. Any questions (or assistance needed) on the area plan format, criteria for approval, instructions, review comments or other aspects of area plan development and review should be directed to the AAA's designated program representative.

(d) If substantive questions concerning an area plan arise during the division's review process, the appropriate program representative shall refer the question to the section chief and to the deputy director or the Assistant Secretary for a policy decision.

(e) Division of Aging Actions on Area Plans. The Division of Aging shall provide notification in writing to the AAA of the final actions taken in either approving, approving with conditions, or disapproving on area plan (or plan amendments).

- (1) Approval

- (A) The Division of Aging shall approve an area plan when the plan is in substantial conformity with the Older Americans Act, related Title III regulations, and division policies.
- (B) The Assistant Secretary for aging shall provide the area agency with a formal notice of approval of the area plan and the amount of approved funds on a standard notification of grant award (NGA) form. The NGA will be signed by the Assistant Secretary.

(2) Approval with Conditions

- (A) The Division of Aging may approve an area plan with conditions when necessary.
- (B) The conditions shall be in writing and shall be clearly noted on the notification of grant award form.
- (C) All conditions placed on an approved area plan shall be consistent with the authority delegated to the Division of Aging.
- (D) When an area plan is approved with conditions, it shall be incumbent upon the grantee to meet these conditions within the specified time frame. As the conditions are met by the grantee, the Division of Aging shall remove the conditions from the grant, and shall officially notify the grantee of the condition removal. Program representatives shall be responsible for periodically updating all NGA conditions.

(3) Disapproval

- (A) Any area plan which is not in substantial conformity with the Older Americans Act, the federal regulations and the Division of Aging policies shall be disapproved.
- (B) When the Division of Aging proposes to disapprove an area plan, it shall notify the area agency in writing of its intention and set forth the reasons for the proposed disapproval. The Division of Aging shall:
 - (i) issue a letter of intent to disapprove the area plan to the area agency indicating the reasons therefor within 30 days of receipt of the area plan;
 - (ii) inform the area agency of the opportunity for a hearing on the area plan under the provisions of Section 206.8 of the Division's "Manual of Policies and Procedures" and shall carry out those procedures.
- (C) The Division of Aging may authorize an established area agency to operate under the previous year's approved area plan until a final determination is made relative to the current area plan.
- (D) If, after providing the area agency proper opportunity for a hearing, the Division of Aging still finds the area plan unacceptable, the Division shall disapprove the plan, using the procedures prescribed by the federal regulations and reprinted in Section 400 of the Division's "Manual of Policies and Procedures."

(4) Notification of Grant Awards

- (A) The fiscal section shall prepare the notification of grant award, with any conditions to be attached being prepared by the appropriate program representatives.
- (B) All special section conditions to be attached to the NGA shall be cleared with the Chief of the Plans and Policy Section.
- (C) All fiscal conditions to be attached to the NGA shall be cleared with the Chief of the Fiscal Section.
- (D) All program conditions to be attached to the NGA shall be cleared with the Chief of the Program Section.
- (E) The NGA shall be signed by the Assistant Secretary for aging.
- (F) NGAs shall be forwarded to the AAA for proper execution and agreement on the terms and conditions of the area plan approval (by signature of NGA). The NGA shall be signed in ink by the director of the AAA, and the legal executive officer of the AAA when the two are different.
 - (i) The Division of Aging shall not require prior approval of contracts proposed for funding under an area plan when the contract will be executed with non-profit public or private organization.
 - (ii) The Division of Aging shall require prior approval of contracts proposed for funding under an area plan when the contract will be executed with a profit making organization. The Division may approve such contracts only if the area agency demonstrates that the profit making organizations would provide services in a manner clearly superior to other available public or private non-profit providers. If

potential problems with such proposed contracts are identified, the Division of Aging will provide the AAA with a written explanation of the problems and necessary corrections.

- (iii) The Division of Aging may request, as part of the area plan approval process, information from the area agency concerning its plans for making awards to minority organizations.
- (iv) Once a contract has been executed by an area agency to carry out a service or an activity under an approved area plan, an implementation plan for the services to be provided under the contract shall be submitted to the Division within 30 days after the effective date of the contract.

History Note: Authority G.S. 143B-10; 143B-138; 45 C.F.R., Chapter XIII, Part 1321; Eff. October 1, 1980; Amended Eff. May 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

10A NCAC 05C .0306 STAFFING

- (a) An area agency shall employ an individual qualified by education and experience to administer the areawide program. The area administrator shall devote full-time solely to activities on aging.
- (b) No AAA shall be allowed to operate without an area administrator (even if an acting area administrator is appointed) for an extended period of time. If an AAA does operate without an area administrator for more than 90 days, the project shall be subject to suspension or termination.

History Note: Authority G.S. 143B-10; 143B-138; 143B-181.1(c); 45 C.F.R., Chapter XIII, Part 1321; Eff. October 1, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

SECTION .0400 - ALLOCATIONS

10A NCAC 05C .0401 COUNTY ORGANIZATION ON AGING FUNDS

History Note: Authority G.S. 143B-10; 143B-138; Eff. October 1, 1980; Pursuant to G.S. 150B-21.3A, rule Expired June 1, 2015.

10A NCAC 05C .0402 PROJECT INCOME FROM STATE FUNDED PROGRAMS

History Note: Authority G.S. 143B-10; 143B-138; Eff. October 1, 1980; Pursuant to G.S. 150B-21.3A, rule Expired June 1, 2015.

10A NCAC 05C .0403 RESPITE CARE

The respite care service funded with Social Services Block Grant funds and administered by the Division of Aging shall be operated in accordance with requirements contained in Chapter 738, Section 101 of the 1987 Session Laws of the North Carolina General Assembly.

History Note: Authority G.S. 143B-153; Chapter 738, 1987 Session Laws; Eff. August 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

10A NCAC 05C .0404 INTRASTATE FUNDING FORMULA

- (a) The intrastate funding formula shall apply to funding allocated to Area Agencies on Aging under the Older Americans Act, 20 U.S.C. 1008a et seq and 45 C.F.R. 1321.37, which are adopted by reference pursuant to G.S. 150B-14(c), and through state appropriations for aging services, where use of the formula is specified.

(b) The Director of the Division of Aging shall determine the portion of the award that shall be designated as base funding and an equal share of this funding shall be allocated to each Area Agency.

(c) Of remaining federal and state funds, a proportional share for each Area Agency will be determined as follows:

- (1) Fifty percent of the funds will be distributed to areas based on the area's proportion of the state's population 60 years of age and older.
- (2) Thirty percent of the funds will be distributed to areas based on the area's proportion of the state's population 60 years of age and older who live at or below the federally defined poverty level.
- (3) Ten percent of the funds will be distributed to areas based on the area's proportion of the state's minority population 60 years of age and older.
- (4) Ten percent of the funds will be distributed to areas based on the area's proportion of the state's rural population 60 years of age and older as defined by the Bureau of the Census.

History Note: Authority G.S. 143B-10(e); 143B-137; 20 U.S.C. 1008a *et seq.*; 45 C.F.R. 1321.57;

Eff. July 1, 1990;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.