



Division of Aging & Adult Services State Unit on Aging Policy



Subject: Legal Services Assistance Program
Policy Chapter: 3700
Effective Date: 07/01/2025
Revision Number: 0

Legal Services Assistance Program

I. POLICY STATEMENT

This policy provides an outline of the Division of Aging and Adult Services (DAAS) operational policies, procedures, and reporting requirements for the Legal Services Assistance Program (LSA).

This policy is subject to change as additional information and regulations are received from the U.S. Department of Health and Human Services (HHS).

II. APPLICABILITY

- A. DES Employees;
- B. Area Agencies on Aging; and
- C. Subcontractors that provide Legal Services.

III. AUTHORITY

[Older Americans Act \(2020\)](#)

Pub L. 116-131

[Code of Federal Regulations \(C.F.R.\)](#)

45 CFR part §1321 and §1324

[Americans with Disabilities Act](#)

42 U.S.C. 12101 et seq.

IV. DEFINITIONS

Advocacy Efforts: Services that take action to protect the rights of individuals and ensure they receive appropriate services and benefits, or to seek needed changes in the law, or administrative rules to protect the rights of individuals, and ensure adequate service levels.

Capacity: Having the expertise and staff to fulfill the requirements of the OAA and all applicable Federal requirements for the provision of Legal Assistance.

Clients: A person aged 60 and over who is seeking or receiving Legal Assistance from the LSA program in the Planning Service Area (PSA) where they live.

Conflict of Interest (COI): Any real, or perceived, financial interest, position, or duties that prevent, or could prevent, a person from performing a LSA task objectively, or that could lead to decisions or duties that are contrary to the objectives of the program. This includes soliciting or accepting gratuities, favors, or anything of monetary value from grantees, contractors, and/or sub-recipients, except where policies and procedures allow for situations where the financial interest is not substantial, or the gift is an unsolicited item of nominal value.

Cost Sharing: A portion of the cost for services rendered is provided by the Client.

Defense of Guardianship: An area of the law prioritized by the Older Americans Act that promotes more person-directed forms of decisional support by preserving, or restoring a Client's rights, autonomy, and decision-making power. Clients at risk of guardianship, and subject to guardianship may receive advice and representation to oppose, limit, or mitigate the appointment of guardianship. Defense of Guardianship does not include representing a petitioner for imposition of guardianship except in limited circumstances where older individuals seek to become guardians. Qualifying cases petitioning for guardianship must show that documented efforts have been made to explore less restrictive alternatives to guardianship, and other adequate representation is unavailable.

Economic Need: Need resulting from an income level at or below the Federal Poverty Level and as further defined by state and area plans based on local and individual factors, including geography and expenses.

Immediate Family Member: Pertaining to COI, a member of the household or a relative with whom there is a close personal or significant financial relationship.

Individual Interests: An employee, or immediate family member of an employee with personal interest in a Title III program who may personally benefit from decisions made in their official capacity.

Isolation: Cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that restricts the ability of an individual to perform normal daily tasks or threatens the capacity of the individual to live independently.

Legal Assistance: Legal advice, counseling, representation, advocacy support, and other appropriate assistance provided to a Client or State agency by an attorney, paralegal, law student under the direct supervision of an attorney, or by a non-lawyer as permitted by law.

Legal Assistance Developer (LAD): Designated SUA employee who provides State-level leadership and advocacy for Legal Assistance by working across the legal network to strengthen the legal services delivery system. The LAD provides oversight for reporting, monitoring, training, and technical assistance to ensure compliance with contracted and subcontracted legal assistance service providers.

Legal Services Assistance Program (LSA): A state program that receives funding from the federal government to provide older adults with Legal Services Assistance and support the advocacy efforts of the area agency on aging in areas of law that have the greatest impact on their independence, choice, and financial security.

Legal Assistance Providers (LAP): Qualified entities who are contracted by an AAA(s) to provide Legal Assistance under the OAA.

Long-Term Care Ombudsman Program (LTCOP): A program dedicated to protecting the health, safety, welfare, and rights of residents living in Long Term Care (LTC) facilities.

Limited English Proficient (LEP): Describes a person whose primary language is not English, or who has difficulties communicating effectively in English due to a disability or impairment. Individuals with LEP may require interpretation, translation, or auxiliary aids to ensure understanding and participation in the LSA program.

Older Americans Act Performance System (OAAPS): The ACL's reporting tool used by SUA, or AAAs to submit the annual State Performance Report (SPR).

Organizational Interests: One or more conflicts between competing duties, programs, and/or services.

Outreach Activities: Activities that inform older adults of their legal rights and availability of legal assistance in community education forums, e.g., presentations, workshops, radio or television shows, newspaper or newsletter articles, and planning education activities around the target population and the priority issue areas.

Personal Identifiable Information (PII): Data that can be used to identify an individual, including name, address, phone number, and birthdate.

Planning and Service Area (PSA): The geographic area designated by the SUA that the AAA is responsible for.

Social Need: Necessity caused by noneconomic factors, such as physical and mental disabilities, language barriers, and cultural, social, or geographic isolation outlined in 45 CFR part §1321.3 that restrict the ability of an individual to perform normal daily tasks or threatens the capacity of the individual to live independently.

State Plan on Aging (State Plan): A detailed document required by the OAA that explains the States' multi-year commitments on how it will spend OAA funds and how it will carry out its programs. The plan must be submitted and approved by the Assistant Secretary on Aging and made publicly available.

Voluntary Contributions: Donations of money or other personal resources are given freely, without pressure or coercion, by individuals receiving services under the OAA.

V. Standards

A. Overview

1. Arizona's Legal Assistance Program (LSA) provides information, advice, assistance, and advocacy to persons 60 years of age and older in civil matters.
2. The LSA promotes and preserves the autonomy, dignity, independence, and financial security of older persons, provides access to the system of justice, and advocates for the preservation of the rights and benefits of older persons.
3. The SUA administers the LSA by providing funding and direction to the State's contracted Area Agencies on Aging (AAAs).
4. AAA contracts with Legal Assistance Providers to provide Clients, to the extent feasible, with free services in the following areas of law:
 - a. Defense of Guardianship;
 - b. Long-term care;
 - c. Age discrimination;

- d. Abuse and neglect;
 - e. Protective services;
 - f. Housing and utilities; casesConsumer law;
 - g. Nutrition;
 - h. Health care; and
 - i. Income and public entitlement benefits.
5. AAAs conduct Outreach Activities to older individuals, with particular focus on underserved communities, including older adults:
- a. With Limited-English Proficiency;
 - b. With severe disabilities;
 - c. Living in rural areas;
 - d. Living in congregate settings;
 - e. Who are institutionalized and/or homebound;
 - f. At risk for institutional placement; and
 - g. With Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and their caregivers.
6. The LSA program prioritizes Clients with the greatest Economic Need and Social Need.
7. AAA's who are unable to provide legal services due to a lack of available legal providers in their PSA must coordinate with the Legal Assistance Developer (LAD) to obtain an Adequate Proportion Waiver.

B. Process to obtain Legal Services

1. Clients seeking legal assistance services should:
- a. Contact their local AAA by phone, online, or in-person to find out about available resources which may include:
 - i. In-person or virtual 1:1 meetings;

- ii. Outreach events where contracted Legal Assistance Providers (LAP) are present.
 - b. Receive a referral to a contracted LAP through an alternative referral pathway, including:
 - i. Case manager;
 - ii. LTCOP;
 - iii. Adult Protective Services (APS); and
 - iv. Arizona's Office of the Attorney General website for Elder Affairs.
2. The LAP will conduct an interview with the Client virtually, over the phone, or in person to determine what the Client's legal needs are, if they require Limited English Proficient (LEP) assistance, and how services will be prioritized.

VI. Procedures

A. Roles and Responsibilities

1. SUA will:
 - a. Contract with AAAs to provide Legal Assistance;
 - b. Ensure services offered by the LSA program will not duplicate or replace services already provided by other entities in the state;
 - c. Designate a minimum portion of Title III B funds to carry out the LSA program, and require the expenditure of at least that sum for each PSA;
 - d. Appoint a Legal Assistance Developer (LAD), as described in VI.A.4;
 - e. Engage LAP(s) to support other advocacy efforts;
 - f. Require a Memorandum of Understanding (MOU) between LAPs and LTCO for the coordination of:
 - i. Referral processes and strategies to be used when servicing the same client; and
 - ii. Strategies to support other elder rights Advocacy Efforts.

- g. Provide advice, training, and technical assistance to AAAs and LSA providers to include, but not limited to:
 - i. Define the greatest Social Need and Economic Need for the purpose of prioritizing the Legal Assistance to be offered in the Planning and Service Area (PSA) and communicate this with the AAAs.
- h. Create a streamlined process to provide AAAs with prior approval for contracts and commercial relationships that AAAs wish to establish;
- i. Oversee and carry out reporting requirements for Legal Assistance as required by ACL;
- j. Monitor AAAs to ensure compliance with the following:
 - i. SUA program policies and procedures;
 - ii. COI and Fingerprinting/background check policies;
 - iii. Data collection and reporting requirements;
 - iv. Coordination with Tribal organizations and Title VI programs;
 - v. Quality and effectiveness in program activities and service delivery;
 - vi. Contract requirements;
 - vii. Federal regulations; and
 - viii. Any additional guidance material provided by SUA and/or ACL.

2. AAA will:

- a. Align all program policies and procedures with the most up to date federal rules, regulations and ACL guidance that pertain to the OAA;
- b. Use Title III B funds, as designated by the State, for the purpose of awarding contracts to LAPs who provide direct Legal Assistance and meet the following requirements:
 - i. Award contract funds only to LAPs who best demonstrate the capacity to meet the standards for LAP selection listed

- in 45 CFR 1321.93(d)and(f);
 - ii. Enter into contracts that contain the minimal provisions listed in 45 CFR 1321.93(e);
 - c. Conduct Outreach Activities;
 - d. Refer Clients to appropriate LSA resources and LAPs when it appears that the Client has legal needs;
 - i. AAA's may not:
 - A. Require sensitive and specific information regarding the Client's legal issues prior to making the referral; and
 - B. Act as the sole and exclusive referral pathway to LAPs.
 - e. AAAs must oversee the LSA program by monitoring LAP(s) for compliance with the following:
 - i. SUA and AAA policies and procedures;
 - ii. Do not require evidence of income, a means test, or Cost Sharing as a condition of receiving assistance;
 - iii. Establish procedures for voluntary contributions that meet the guidelines in DAAS Service Contributions Policy.
 - iv. Provide services within the entire PSA or at least a county within the PSA;
 - v. Follow SUA data collection and reporting requirements;
 - vi. Attend all virtual and in-person meetings, trainings, webinars, and conferences as required by SUA, ACL, and LAD.
 - vii. Identify, mitigate and/or remove all COIs per SUA policy guidance;
 - viii. Adhere to DES fingerprinting and criminal background check requirements in VI.C.1.a; and

- ix. Adhere to Arizona's Rules of Professional Conduct and the specific restrictions on activities in the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), unless exempted under 45 CFR 1321.93(e)(v).
3. LAP will:
- a. Retain staff with expertise in specific areas of law provided by the LSA;
 - b. Administer effective administrative and judicial advocacy in the areas of law affecting Clients with the greatest Social Need and Economic Needs;
 - c. Have intake and closing processes that:
 - i. Includes an assessment of an individual's need for LEP services to understand and participate in the legal process;
 - ii. Does not require a Client to participate in a means test, or cost sharing as a condition of receiving assistance;
 - iii. Allows for clients to make Voluntary Contributions following the guidelines in DAAS Service Contributions Policy;
 - iv. Makes appropriate referrals to providers within the services area and ensures coordinated services are provided;
 - v. Is accessible to Clients prioritized by the LSA program, including offices that follow access guidelines set by the ADA;
 - vi. Maintains attorney-client privilege as set by Arizona's Professional Codes of Conduct; and
 - vii. Collects all information necessary to fulfill the SUA's and ACL's reporting requirements.
 - d. Receive referrals and requests for advocacy support from State agencies including but not limited to LTCOP, APS, and AAA;
 - e. Enter into a Memorandum of Understanding (MOU) with LSCO, and other relevant agencies at the LAD's discretion, for the coordination

of:

- i. Referral processes and strategies to be used when servicing the same client; and
 - ii. Strategies to support other elder rights Advocacy Efforts.
 - f. Identify, mitigate, and remove COI:
 - i. Providers must identify, mitigate and/or remove all COI per SUA policy guidance.
 - ii. Providers may engage in other legal activities to the extent that there is no COI or other interference with the responsibilities of the OAA.
 - g. Cooperate with, and provide each Client with the Client grievance process developed by the AAA, and have a copy displayed so that it is accessible to all Clients;
 - h. Enforce standards for staff training, performance, and review to include training required by the AAA and SUA;
 - i. Follow SUA and AAA data collection and reporting requirements;
 - j. Adhere to DES fingerprinting and criminal background check requirements as referenced in VI.C of this policy; and
 - k. Adhere to Arizona's Rules of Professional Conduct and the specific restrictions on activities in the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), unless exempted under 45 CFR 1321.93(e)(v).
4. LAD will:
- a. Act as a local spokesperson for the program;
 - b. Provide general oversight of all LSA services and activities;
 - c. Ensure accurate and timely reporting for all state and federal reporting requirements;
 - d. Communicate with Federal, State, Tribal organizations, and local partners; and
 - e. Facilitate coordination with the LTCO when clients need legal assistance.

B. Conflict of Interest

1. AAAs and contracted LAPs must abide by policies and guidance regarding Conflicts of Interest developed by SUA and must comply with SUA's periodic review of programs for COI.
2. LAPs may not engage in other legal activities that interfere with their professional duties under the OAA, or create COI as defined by SUA, AAA(s), or State Bar of Arizona.
3. SUA ensures that the Legal Assistance Developer (LAD), and applicable support staff, are:
 - a. Free of Individual and Organizational Interests that are, or appear to be contrary to the LAD's responsibilities; and
 - b. Do not also serve as:
 - i. Director of, or legal counsel to, Adult Protective Services (APS);
 - ii. Long-Term Care Ombudsman, or as legal counsel to an LTCOP;
 - iii. Part of a judiciary body taking part in cases related to the legal rights of older adults, in which a legal provider may appear;
 - iv. Legal counsel in an administrative proceeding related to long-term care (LTC) settings, including residential settings;
 - v. Public or private guardian, conservator, or fiduciary or operating such a program, or serving as counsel to these positions or programs.
 - vi. A body approving the licensure certifications for LTC settings, or serving as counsel to such positions.

C. Fingerprinting and Criminal Background Check

1. AAA must ensure that service providers comply with the following:
 - a. A fingerprint-based criminal background check must be completed at the time of hire or as a result of reassignment after hire, on employees and volunteers who have direct contact with juveniles or

vulnerable adults including those who are mentally disabled, frail, or have a chronic disease that puts them at risk for abuse (see A.R.S. § 46-141). See also DAAS Administrative Mandates Policy.

D. Systems, Software, and Technology

1. The AAAs and contracted legal providers must utilize the Division of Aging and Adult Reporting System (DAARS) to adhere to the ACL's Older Americans Act Performance System (OAAPS) and SUA's reporting requirements.
2. The SUA must utilize OAAPS to adhere to ACL's reporting requirements.

E. Privacy, Confidentiality and Disclosure

1. Protection and release of Confidential Information
 - a. The transmission of Personally Identifiable Information (PII) and Protected Health Information (PHI) for any Client must be transmitted using secure means such as encryption to ensure the information is not accessed by unauthorized individuals.
 - b. Disclosure of PII may only be made with the informed consent of the Client or their legal representative, unless required by law or court order, for program monitoring by authorized agencies.
2. Address Confidentiality Program
 - a. AAA Employees and Contractors must refer to the DES Address Confidentiality Program (ACP) Policy and the DAAS ACP Policy if a Client states that they are a participant in the Address Confidentiality Program.
 - b. If the Client is an ACP Participant, the substitute address must be accepted on all application material required for the program.
3. Records and information collected by the program are maintained as confidential under A.R.S. §41-1959. This includes:
 - a. Client information;
 - b. AAA and LAP records; and
 - c. Information collected during an appeal.

4. Records and information maintained as confidential must not be released except as authorized under A.R.S. §41-1959.
 - a. AAA must explain to Clients that individual information and records may be shared in order to provide services.
 - b. The SUA and AAAs may not require LAP to reveal any information that is protected by attorney-client privilege.

F. Reporting

1. SUA must:
 - a. Follow all ACL requirements for:
 - i. The State Performance Report (SPR); and
 - ii. OAAPS reports.
2. AAAs and contracted LAPs must:
 - a. Enter data into DAARS monthly that meets the following criteria:
 - i. Aggregated and de-identifiable data falling into four categories:
 - A. Client demographics and characteristics;
 - B. Case types;
 - C. Levels of service; and
 - D. Hours and units billed.
 - b. Follow all SPR guidance, and attend any training provided on this topic by the Legal Assistance Developer.

G. Program File Management and Retention

1. Records Management
 - a. AAAs and LAPs must maintain LSA program records in paper or electronic format.
 - b. All records, regardless of their format, must be maintained in a secure manner to protect the contents from breach, theft, or misuse. This includes:

- i. Maintaining paper documentation in locked files; and
- ii. Securing electronic records.

H. Complaints, Grievances, and Appeals

1. Each AAA will develop a process to:
 - a. Investigate and resolve complaints from Clients and other outside parties against AAA and LAP(s) per DAAS Appeals Policy.
 - b. Verify that Clients receive a copy of the complaints, grievance and appeals process.

Equal Opportunity Employer / Program • Auxiliary aids and services are available upon request to individuals with disabilities • To request this document in alternative format or for further information about this policy, contact the Division of Aging and Adult Services at 602-542-4446; TTY/TDD Services 7-1-1