

**RULES
OF
TENNESSEE COMMISSION ON AGING**

**CHAPTER 0030-1-5
AREA AGENCY ON AGING OPERATION AND PROVISION
OF SOCIAL SERVICES**

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0030-1-5-.01 DESIGNATION OF PLANNING AND SERVICE AREA.

- (1) The Commission has designated as planning and service areas the areas covered by the boundaries as specified in the "Development District Act of 1965" (T.C.A.13-14-101). Otherwise noted, these multi-county areas will be referred to as the PSA's.
- (2) The State Agency provides an opportunity to apply to be designated as a planning and service area to any unit of general purpose local government, region, or metropolitan area, which has a population of 100,000, or Indian reservation(s). The application on behalf of an Indian reservation(s) must be made by the governing tribal organization(s).
- (3) In accepting an application for designation as a planning and service area, the State Agency considers:
 - (a) The distribution in the state of persons age 60 and older including those with the greatest economic need;
 - (b) The views of public officials of the units of general purpose local governments;
 - (c) The incidence of need for services provided under Title III and the resources available to meet these needs; and,
 - (d) The boundaries of units of general purpose local government, regional planning areas, Indian reservations, existing development districts and areas within the state established for planning and administering human services. The State Agency attempts to include all portions of a development district or an Indian reservation within a single planning and service area.
- (4) The State Agency documents the basis for its designation of each planning and service area.
- (5) The State Agency provides an opportunity for a hearing following the procedures specified in Section 0030-1-8-.02 of these rules to any eligible applicant which applies for designation as a planning and service area.
- (6) Any applicant for designation as a planning and service area under the above provisions whose application is denied by the State Agency may appeal the denial under the procedures specified below:
 - (a) The appellant must first appeal to the State Agency following the procedures specified in Section 0030-1-8-.02.
 - (b) If the hearing decision by the State Agency is unfavorable to the appellant, the appellant may appeal to the Commissioner within 30 calendar days of the decision.

(Rule 0030-1-5-.01, continued)

- (c) This appeal process, when exhausted, does not preclude seeking appropriate legal relief or appeal.
- (7) When the Commissioner receives an appeal, the Commissioner requests the State Agency to submit:
 - (a) A copy of the appellant's application for designation as a planning and service area;
 - (b) A copy of the written decision of the State Agency; and,
 - (c) Any other relevant information the Commissioner may require.
- (8) The procedures for the appeal consist of:
 - (a) Prior written notice to the appellant and the State Agency of the time and location of the hearing;
 - (b) The required attendance of the executive director of the State Agency or his designated representatives;
 - (c) An opportunity for the appellant to be represented by counsel or other representative; and,
 - (d) An opportunity for the appellant to be heard in person and to present documentary evidence.
- (9) Decision by the Commissioner
 - (a) The Commissioner will issue a written decision;
 - (b) The Commissioner may:
 - 1. Deny the appeal and uphold the decision of the State Agency;
 - 2. Uphold the appeal and require the State Agency to designate the appellant as a planning and service area; and,
 - 3. Take other appropriate action, including negotiating between the parties or remanding the appeal to the State Agency after initial findings.
 - (c) The Commissioner will uphold the decision of the State Agency if the State Agency has followed the procedures specified in Section 0030-1-8-.02 and this section, and its decision was not manifestly inconsistent with the purpose of the Older Americans Act.
 - (d) This appeal process, when exhausted, does not preclude seeking appropriate legal relief or appeal.

Authority: T.C.A. §14-6-105. **Administrative History:** Original rule filed July 6, 1982; effective August 6, 1982.

0030-1-5-.02 DESIGNATION OF AREA AGENCIES ON AGING.

- (1) The State Agency will designate an Area Agency in each planning and service area in which it allocates funds under this part.
- (2) The Area Agency must:

(Rule 0030-1-5-.02, continued)

- (a) Develop and administer the area plan for a comprehensive and coordinated system of services; and,
 - (b) Serve as the advocate and focal point for older persons in the planning and service area.
- (3) Before designating or redesignating an Area Agency, the State Agency will;
 - (a) Determine, through an onsite assessment, the capacity of the agency to carry out all the functions of an Area Agency specified in this part; and,
 - (b) Consider the views of the unit or units of general purpose local government within the planning and service area.
- (4) The State Agency has made initial designations of Area Agencies which will remain in effect unless a redesignation is required or requested.
- (5) The State Agency may designate as an Area Agency any one of the following types of agencies that has the Authority and capacity to carry out the functions of an Area Agency;
 - (a) An established office on aging which operates within the planning and service area;
 - (b) Any office or agency of a unit of general purpose local government that is proposed by the chief elected official of the unit;
 - (c) Any office or agency proposed by the chief elected officials of a combination of units of general purpose local government; or,
 - (d) Any other public or private nonprofit agency, except any regional or local agency of the State.
- (6) In designating or redesignating an Area Agency, the State Agency will give preference to:
 - (a) An established office on aging;
 - (b) An agency that has previously been involved primarily in aging programs; or,
 - (c) An Indian tribal organization in any planning and service area whose boundaries are essentially the same as those of an Indian reservation(s).
- (7) An Area Agency must be able to meet the conditions prescribed by the State Agency on Aging.
- (8) The potential Area Agency must have demonstrated its capacity, through previous activities or other suitable evidence, to perform the functions required of an Area Agency on Aging.
- (9) The potential agency must have area wide identification. It must be able to work with all social, economic, racial, and geographic elements of the planning and service area it seeks to serve and be able to facilitate the development of a focal point on aging within each community in the planning and service area.
- (10) The State Agency may remove the designation as an Area Agency on Aging from an organization serving in that capacity. In such a case, the State Agency will follow the procedures in Section 0030-1-8-.03 of these rules.

Authority: T.C.A. §14-6-105. **Administrative History:** Original rule filed July 6, 1982; effective August 6, 1982.

0030-1-5-.03 RESERVED.

Authority: T.C.A. §14-6-105. **Administrative History:** Original rule filed July 6, 1982; effective August 6, 1982.

0030-1-5-.04 RESERVED.

Authority: T.C.A. §14-6-104. **Administrative History:** Original rule filed July 6, 1982; effective August 6, 1982.

0030-1-5-.05 SUSPENSION OF AREA PLAN FUNDING.

- (1) The suspension of funding to an Area Agency by the State Agency temporarily suspends State or Federal assistance under the area plan pending corrective action by the Area Agency or pending a decision by the State Agency to terminate the contract.
- (2) When conditions warrant, the State Agency may suspend area plan operations in whole or in part. Such conditions would result from the Area Agency's failure to comply with contract award stipulations, standards, or conditions.
- (3) To suspend area plan operations, the State Agency shall notify the Area Agency in writing of the action being taken, the reason for such action, and the conditions of the suspension. This notice shall be given at least thirty (30) days prior to the effective date of suspension and shall note the right of the Area Agency to appeal such decision and the procedures to be followed for such an appeal.
- (4) The State Agency shall grant to any Area Agency whose area plan has been suspended in whole or in part an opportunity for a hearing in accordance with the provisions set forth in Section 0030-1-8-.02 of these rules.
- (5) The State Agency may, at its discretion, allow federal financial participation in necessary and proper costs which the Area Agency could not reasonably avoid during the period of suspension.
- (6) In suspending area plan operations, the State Agency shall determine the amount of unearned Title III funds the Area Agency has on hand. The anticipated length of suspension, the extent of area plan operations suspended, and the amount of fund balance on hand will determine whether the State Agency will require the balance to be returned.
- (7) The State Agency may, at its discretion, reinstate the suspended area plan operations if it determines that conditions warrant such action.
- (8) Federal participation in reinstated area plan operations may resume immediately upon reinstatement, but not for any costs accrued for those area plan operations while they are suspended. The obligational Authority unearned at the time of suspension again becomes available for earning by the project at the previously established matching ratio.
- (9) If the suspension of area plan operations continues for three (3) consecutive months in any budget year, federal funding of area plan operations is automatically terminated.

Authority: T.C.A. §14-6-105. **Administrative History:** Original rule filed July 6, 1982; effective August 6, 1982.

0030-1-5-.06 TERMINATION OF AREA PLAN FUNDING.

- (1) The termination of funding means the cancellation of State or federal assistance, in whole or in part, under a contract at any time prior to the date of completion.
- (2) The Commission may terminate State or federal support for an area plan prior to the end of an approval budget year or project period if:

(Rule 0030-1-5-.06, continued)

- (a) The Area Agency violates the conditions under which the contract was approved;
 - (b) Program performance is inadequate, or,
 - (c) Nonfederal resources are not available.
- (3) If the Commission terminates funding for an area plan, it will notify the Area Agency in writing of the action being taken and the reasons for such action. This notice will be given at least thirty (30) days prior to the effective date of termination and will specify any reports to be completed, the right of the Area Agency to appeal, and the procedure to be followed for appeal.
- (4) The Commission shall grant to any Area Agency whose area plan has been terminated, in whole or in part, an opportunity for a hearing in accordance with the provisions set forth in Section 0030-1-8-.02 of these rules.
- (5) The Commission or Area Agency may terminate the contract, in whole or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in case of partial terminations, the portion to be terminated. The Area Agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Commission shall allow full credit to the Area Agency for the federal share of the non-cancellable obligations, properly incurred by the Area Agency prior to termination.

Authority: T.C.A. §14-6-105. **Administrative History:** Original rule filed July 6, 1982; effective August 6, 1982.

0030-1-5-.07 RESERVED.

Authority: T.C.A. §14-6-105. **Administrative History:** Original rule filed July 6, 1982; effective August 6, 1982.

0030-1-5-.08 CONFIDENTIALITY REQUIREMENTS FOR PARTICIPANT INFORMATION.

- (1) In order that the privacy of each participant in aging programs is in no way abridged, the confidentiality of all participant data gathered and maintained by the State Agency, the Area Agency, and any other agency, organization, or individual providing services under the State or area plan, shall be safeguarded by specific policies.
- (2) Each participant from whom personal information is obtained shall be made aware of his or her rights to:
 - (a) Have full access to any information about one's self which is being kept on file;
 - (b) Be informed about the uses made of the information about him or her, including the identity of all persons and agencies involved and any known consequences for providing such data; and,
 - (c) Be able to contest the accuracy, completeness, pertinence, and necessity of information being retained about one's self and be assured that such information, when incorrect, will be corrected or amended on request.
- (3) All information gathered and maintained on participants under the area plan shall be accurate, complete, and timely and shall be legitimately necessary for determining an individual's need and/or eligibility for services and other benefits.

(Rule 0030-1-5-.08, continued)

- (4) No information about, or obtained from, an individual participant shall be disclosed in any form identifiable with the individual to any person outside the agency or program involved without the informed consent of the participant or his/her legal representative, except:
 - (a) By court order; or,
 - (b) When securing client-requested services, benefits, or rights.
- (5) The lists of older persons receiving services under any programs funded through the Commission shall be used solely for the purpose of providing said services, and can only be released with the informed consent of each individual on the list.
- (6) All paid and volunteer staff members providing services or conducting other activities under the area plan shall be informed of:
 - (a) Their responsibility to maintain the confidentiality of any client-related information learned through the execution of their duties. Such information shall not be discussed except in a professional setting as required for the delivery of service or the conduct of other essential activities under the area plan; and,
 - (b) All policies and procedures adopted by the State and Area Agency to safeguard confidentiality of participant information, including those delineated in these rules.
- (7) Appropriate precautions shall be taken to protect the safety of all files, microfiche, computer tapes and records in any location which contain sensitive information on individuals receiving services under the State or area plan.
- (8) Interviews with program participants shall not be filmed, taped, photographed, or observed without the prior knowledge and consent of that participant individual.
- (9) Any complaint filed by a participant, potential participant, or individual denied services shall be thoroughly investigated with a written response provided in a timely manner. The identity of the complainant shall not be released by the investigating agency without the express informed, written consent of the individual(s) involved.

Authority: T.C.A. §14-6-105. **Administrative History:** Original rule filed July 6, 1982; effective August 6, 1982.

0030-1-5-.09 OPEN MEETINGS.

- (1) Requirements of the Public Meetings Law (T.C.A. §8-44-101, et. seq.) which require that “the formation of public policy and decisions is public business and shall not be conducted in secret” shall apply in each case where policy or administrative decisions which directly affect the public and are funded under the Older Americans Act or State Appropriations for Aging Programs are involved, including boards and executive committees of:
 - (a) Development Districts;
 - (b) Human Resource Agencies; and,
 - (c) Community Action Agencies.
- (2) Any private agency serving as a grantee, subgrantee, or contracting agency utilizing Older Americans Act or State Appropriations for Aging Programs by Authority of these rules shall comply with all

(Rule 0030-1-5-.09, continued)

provisions of the Public Meetings Law T.C.A. §8-44-101, et. seq.) When policy or administrative decisions are made affecting those activities funded under the State or area plan.

Authority: T.C.A. §14-6-105. **Administrative History:** Original rule filed July 6, 1982; effective August 6, 1982.

0030-1-5-.10 FREEDOM OF INFORMATION.

- (1) The Area Agency shall maintain a policy of public information designed to assure that all federal, State, and local policies governing the administration of the annual area plan, contracts for the conduct of activities and services under the area plan, and periodic Area Agency reports will be reasonably available for review by interested persons.
- (2) The Area Agency shall provide policy and/or program information upon request to individuals, organizations, and media representatives regarding Title III programs and services without reservation, provided the requested information does not violate the standards of confidentiality set out in Section 0030-1-5-.08. A reasonable predetermined charge may be made for materials provided under this section.
- (3) The Area Agency shall disseminate information about aging program development and administration in such a manner as to reach the maximum number of potential project participants representing all target groups and areas.

Authority: T.C.A. §14-6-105. **Administrative History:** Original rule filed July 6, 1982; effective August 6, 1982.