



LEGAL ASSISTANCE SERVICE DEFINITIONS

The legal assistance program provides individuals who are at least 60 years of age with help in dealing with legal issues and problems. The goal of the program is to assist older adults with understanding and maintaining their rights; to assist older adults in exercising their choices; to help older adults benefit from available services; and to resolve disputes. The program also promotes the need for lifetime planning through the understanding and the use of advance directives.

4017.1 ALLOWABLE LEGAL ASSISTANCE ACTIVITIES

Allowable activities must include assistance in the areas of:

1. Income
2. Health care
3. Long-term care
4. Nutrition
5. Housing
6. Utilities
7. Protective services
8. Defense of guardianship
9. Abuse
10. Neglect
11. Age discrimination

Allowable activities may also include:

1. Communicating with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies;
2. Informing a client about a new or proposed statute, executive order, or administrative regulation;
3. Responding to a client's request for advice only with respect to the client's own communications to officials unless otherwise prohibited by the OAA regulations or other applicable law. This provision does not authorize publication of lobbying materials or training of individuals on lobbying techniques or the composition of a communication for the individual's use;
4. Making direct contact with the AAA for any purpose;
5. Providing a client with administrative representation in adjudicatory or rulemaking proceedings or negotiations, directly affecting that individual's legal rights in a particular case, claim or application;
6. Communicating with an elected official for the sole purpose of bringing a client's legal problem to the attention of that official;
7. Responding to the request of a public official or body for testimony, legal advice or other statements on legislation or other issues related to aging; provided that no such action will be taken without first obtaining the written approval of the responsible AAA; and
8. A legal assistance provider asking about the individual's financial circumstances as a part of the process of providing legal advice, counseling and representation, or for the purpose of identifying additional resources and benefits for which an older adult may be eligible.

4017.2 ACTIVITIES NOT ALLOWED

Excluded activities include:

1. Any requirement for an older adult to disclose information about income or resources as a condition for providing legal assistance;

2. Legal representation in a fee generating case unless other adequate representation is unavailable or there is an emergency requiring immediate legal action. All providers shall establish procedures for the referral of fee generating cases;
3. Making OAA funds available to be used for lobbying activities, including but not limited to activities intended to influence any decision or activity by any non-judicial Federal, State or local individual or body;
4. Engaging in any political activity while performing legal assistance activities which are supported with Title III funding;
5. Contributions made by a provider, employee of the provider, or staff attorney from Older Americans Act funds, personnel or equipment to any political party or association or to the campaign of any candidate for public or party office; or for use in advocating or opposing any ballot measure, initiative, or referendum; and
6. Intentionally identifying the Title III program or provide, with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office.

While carrying out legal assistance activities and while using resources provided under Title III, no provider or its employees shall:

1. Participate in any public demonstration, picketing, boycott, or strike, except as permitted by law in connection with the employee's own employment situation;
2. Encourage, direct, or coerce others to engage in such activities; or
3. Engage in or encourage others to engage in any illegal activity; or make any intentional identification of programs funded under the OAA or recipient with any political activity

4017.6 SERVICE PROVIDER PROCEDURES

Each Legal Assistance Services provider shall do the following:

1. Offer direct services provided by an attorney and/or non-lawyer advocate under the direct supervision of an attorney as permitted by state law.
2. Administer a program designed to provide assistance to older adults with greatest social or economic need;
3. Assure that the Legal Assistance Services provided will be in addition to any Legal Assistance Services for older adults being furnished with funds from sources other than Title III B; and
4. Agree that all Legal Assistance Services provided are coordinated with legal services corporations and other agencies providing legal assistance in the community to avoid unnecessary duplication of services provided by other sources;
5. Restrict activity to these allowable service components:
 - (A) Intake;
 - (B) Advice;
 - (C) Counsel;
 - (D) Representation;
 - (E) Mediation/negotiation;
 - (F) Outreach, community education;
 - (G) Research;
 - (H) Document preparation
 - (G) Referral.
6. Make referrals appropriately to other Legal Assistance Service providers in the PSA, pro bono or reduced fee attorneys for the delivery of legal assistance related to the priority service and issue areas and other services which cannot be delivered by the provider;
7. Be responsible for identifying conflicts of interests and other interference with professional responsibilities under the act;

8. With the consent of the older person, or his or her representative, bring conditions or circumstances that place the older adult, or the household of the older person, in imminent danger to the attention of appropriate officials for follow-up;
9. Assist participants in taking advantage of benefits under other programs;
10. Work closely with the AAA on the development of the legal assistance section and other appropriate sections of the area plan;
11. Establish written procedures for:
 - (A) Intake;
 - (B) Accepting and denying cases;
 - (C) Grievances and appeals;
 - (D) Individual satisfaction or dissatisfaction with services;
 - (E) Identifying conflicts of interest;
 - (F) Referring cases with a conflict of interest;
 - (G) Referring denied cases;
 - (H) Referring fee generated cases;
 - (I) Referrals to other agencies for non-legal problems;
 - (J) Protecting the integrity of the legal assistance program where other service(s) are housed in the same agency, e.g., Ombudsman;
 - (K) Gathering and preparing information for reporting about legal issues and unmet needs for assistance, including benefits, services, exercising choice, maintaining rights, and solving disputes;
 - (L) Individual contributions; and
 - (M) Confidentiality.