

Strengthening the Voice of Older Adults and the Aging Network

**A Vision for the Reauthorized
Older Americans Act**

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Acknowledgements

Founded in 1950, the National Council on Aging (NCOA) is dedicated to improving the health and economic security of older persons and increasing their continuing contributions to communities, society, and future generations. Our programs help older people remain healthy, find jobs, discover new ways to continue to contribute after retirement, and take advantage of government and private benefits that can improve the quality of their lives. For more information on NCOA, please visit www.NCOA.org.

This paper is made possible by the charitable support of The Atlantic Philanthropies, and it frames the policy objectives pursued by NCOA under the *One Away* campaign for elder economic security. This paper reflects the input of 300 national, state, and local stakeholders and was

developed in collaboration with key leaders in the field. We would especially like to thank the following individuals for their insightful recommendations and contributions: Vicki Gottlich at the Center for Medicare Advocacy, Charlie Sabatino and David Godfried at the American Bar Association Commission on Law and Aging, and Paul Nathanson at the National Senior Citizens Law Center.

We also acknowledge the insight, expertise, and assistance of Hilary Dalin, director of Policy & Programs for NCOA's National Center for Benefits Outreach & Enrollment; Nora Eisenhower, director of NCOA's National Center for Benefits Outreach & Enrollment; Brandy Bauer, communications associate; Becky Scheckelhoff, consultant; Marci Phillips, director of Public Policy & Advocacy at NCOA; and Sara Clary, consultant.

Executive Summary

The term “advocacy” is found throughout the Older Americans Act (OAA), and virtually every program and funding stream created by the OAA requires that the entire aging network¹ advocate on behalf of older Americans. The charge begins at the very top, with the Administration on Aging (AoA) and its leadership, including the Assistant Secretary, tasked with serving “as the effective and visible advocate for older individuals.” (Title 2, Section 202)

At the most comprehensive level, advocacy is about creating positive change through strategies, actions, and solutions that attempt to influence decision-making. Advocacy can be a highly effective tool for drawing public attention to the needs of particular vulnerable groups, including the economically and socially vulnerable older Americans who are the priority populations targeted by the OAA.

But raising awareness is not the only goal of advocacy. Advocacy can positively impact program offerings, service delivery, and outcomes delivered under OAA programs, thereby improving the lives of seniors with the greatest economic and social need.

While the OAA abounds with multiple uses of the term “advocacy” and requirements to engage in advocacy activities, a precise definition and explanation of the scope of this term are noticeably absent in the “definitions” section of the Act. This has left room for confusion and misunderstanding about the scope and directives of the many advocacy mandates within the Act.

Dimensions and Principles of Advocacy under the OAA

There are three inextricably related dimensions that define the scope of advocacy in the OAA:

- **One-to-one advocacy** focuses on work to empower and improve access for individual vulnerable older Americans.
- **Systems advocacy** is directed toward the mechanisms that “make things happen” by removing barriers or improving access to specific programs or processes.
- **Policy advocacy** aims to impact broad guidelines and policies at the federal and state levels that would affect older Americans across the country.

We believe that there are also five principles that serve as the foundation for all three dimensions of advocacy in the context of the reauthorized Older Americans Act:

1. **Empower older Americans:** Vulnerable older Americans who are experiencing the greatest economic and social need—the priority group targeted by the Older Americans Act—must be empowered to advocate on their own behalf.
2. **Integrate advocacy provisions and functions:** Emphasizing the integration of the OAA’s advocacy provisions would make for far more effective advocacy, which would in turn result in better outcomes for older Americans.

3. **Education and training:** Ongoing training enables continuous growth of good advocates and is essential to an enduring, successful advocacy culture around aging issues.
4. **Accountability:** Thoughtful measures must tell the advocacy story of the aging network.
5. **Independence:** The independence of advocacy roles and responsibilities must be protected.

A Way Forward: Recommendations for OAA Reauthorization

OAA reauthorization presents a unique opportunity to make significant improvements to the advocacy provisions under the Act. The reauthorization should establish a structure that encourages all components within the aging network to collaborate and engage in increased advocacy to produce more robust and impactful person-centered, community-based policies, initiatives, and systems to effectively and efficiently improve the lives of older Americans. Specific recommendations for OAA reauthorization include:

1. **Define advocacy to help engage the aging network.** A comprehensive definition included in the definition section at the beginning of the OAA would provide much-needed guidance to individuals and organizations about their advocacy requirements. OAA reauthorization should include a definition of “advocacy” that integrates the three dimensions and five principles articulated above.
2. **Provide needed support for education and training on advocacy.** Informed advocacy is based upon a thorough understanding of the central role that advocacy plays in the OAA and enables the aging network to obtain the skills and knowledge needed to fulfill their obligations.
3. **Create advocacy reporting measures.** AoA should work with stakeholders to develop advocacy reporting measures that can be easily used by the aging network and are focused on outcomes as well as process elements. The goal must be to tell the story of advocacy being conducted throughout the aging network and how it improves the lives of older Americans with the greatest economic and social need.
4. **Impose oversight and enforcement of advocacy provisions.** Strengthening oversight will improve the aging network’s ability to engage in advocacy on behalf of and in partnership with older Americans.
5. **Strengthen legal assistance.** OAA reauthorization should emphasize better collaboration within the aging network and more strategic delivery mechanisms for legal assistance. This can be accomplished by promoting effective deployment of legal assistance resources, forming a National Advisory Group to advise AoA and elder legal services providers, and strengthening legal assistance delivery.

- 6. Ensure that advocacy functions within the OAA are protected against undue interference.** The Act should include provisions similar to those for ombudsmen that make willful interference with official advocacy functions illegal and prohibit retaliation or reprisal against anyone who cooperates with it.
- 7. Strengthen the transparency requirements for state units on aging and area agencies on aging annual and long-term plans and funding disbursements.** The Act should include language that specifically requires input from stakeholders, so they have a voice in the way funds are to be distributed, the priority levels that will be set on different issues, and generally how the aging network will be run in the state.

Conclusion

The Older Americans Act was intended to provide the supports needed to ensure that older Americans with the “greatest economic and social need” would be able to secure access to needed health care and find the path to a more economically secure and high-quality life. Advocacy assumes a critical role in that the efforts of all those in the aging network—from the Assistant Secretary to every local service provider—are and remain driven by a foundation of empowering older Americans and complimenting their choices through service delivery. Establishing such an aging network focus, along with strengthening advocacy provisions, would enable and grow meaningful collaborations and partnerships to promote the autonomy and dignity of each and every older American.

Introduction

The term “advocacy” is found throughout the Older Americans Act (OAA), and virtually every program and funding stream created by the OAA requires that the entire aging networkⁱ advocate on behalf of older Americans. The charge begins at the very top, with the Administration on Aging (AoA) and its leadership, including the Assistant Secretary, tasked with serving “as the effective and visible advocate for older individuals.” (Title 2, Section 202)

At the most comprehensive level, advocacy is about creating positive change through strategies, actions, and solutions that attempt to influence decision-making. Advocacy can be a highly effective tool for drawing public attention to the needs of particular vulnerable groups, including the economically and socially vulnerable older Americans who are the priority populations targeted by the OAA.

But raising awareness is not the only goal of advocacy. Advocacy can positively impact program offerings, service delivery, and outcomes delivered under OAA programs, thereby improving the lives of seniors with the greatest economic and social need. This is entirely consistent with the Act’s definition of civic engagement as “an individual or collective action designed to address a public concern or an unmet human, educational, health care, environmental, or public safety need.” (Section 102(a)(12))

While the OAA abounds with multiple uses of the term “advocacy” and requirements to engage in advocacy activities, a precise definition and explanation of the scope of this term is noticeably absent in the “definitions” section of the Act. This has left room for confusion and misunderstanding

about the scope and directives of the many advocacy mandates within the Act. Perhaps this omission begins to explain why these advocacy charges do not universally “jump off the page” and translate into action throughout the aging network.

As is well known, the aging population in the United States is growing at a rapid pace. Current estimates project that in 2050, the number of Americans aged 65+ will be 88.5 million, more than double the population of 40.3 million in 2010. Although efforts are ongoing to increase resources for the Older Americans Act, it is likely that whatever investments are adopted in future years will not be sufficient to provide all services that every older American needs.

Instead, the aging network will need to continue to expand collaboration with other agencies, programs, and the private sector to engage in non-partisan, policy-focused debate about how they can work together. By 2020, it is projected that 23 million, or close to 40% of seniors, will be living in poverty. This gives added urgency to the need for all components of the aging network to engage in advocacy about how the Act’s goals can best be achieved.

This paper begins with a conceptual exploration of advocacy in the historical context of the OAA, and what it is and isn’t. It goes on to describe the three key dimensions of advocacy and the five principles that underline these dimensions. After providing some examples of OAA advocacy activities in practice, the piece concludes with recommendations for how advocacy provisions can be strengthened and clarified in the reauthorization of the OAA.

Historical Context of OAA Advocacy

Congress enacted the Older Americans Act as the third piece in a critical three-pronged strategy intended to mitigate poverty among vulnerable older Americans by providing economic and social supports. Signed into law by President Johnson in 1965, the OAA joined two other critically important programs—Medicare and Medicaid—to improve the lives of many older Americans then living in poverty.

The impact was dramatic. In 1959, about 35% of older Americans lived in poverty; by 2007, that rate had fallen to less than 10%.ⁱⁱⁱ Prior to the 1965 enactment of Medicare, “roughly half of all seniors lacked health insurance.”^{iv} The same may be observed regarding many younger adults living with disabilities. Over the last 50 years, the OAA has helped bring Medicare and Medicaid to people in need.

But with the recent and prolonged downturn in the economy, we’ve once again seen an increase in the number of older adults living near or below the poverty line. These seniors are in need of economic and social supports provided by the OAA to improve the quality of their lives and enable them to remain in their homes and communities with a sense of autonomy and independence for as long as possible.

The OAA defines seniors living at or below the federal poverty level as having the greatest economic need. Greatest social need^v is defined as the need caused by non-economic factors—including physical and mental disability, language barriers, and indications of isolation that restrict an individual’s capacity to engage in daily tasks

of living or place the person’s independence at risk.^{vi} Close to half of the 48 million people with Medicare live below 200%^{vii} of the poverty line.

With the cohort of seniors sharing both great economic need and great social need growing, there is a compelling need for an engaged aging network to join forces with the affected seniors to advocate for programs and services to meaningfully address their needs.^{viii} This is why the upcoming reauthorization of the OAA is so important. This timing gives the aging network a critical opportunity to revitalize the original intent of the OAA to:

- Support an engaged network working and empowering seniors to advocate and ensure that older Americans receive the benefits and services to which they are entitled.
- Ensure that systems function efficiently and effectively.
- Ensure that policies are written to protect and improve programs for older Americans.

Examining the current advocacy provisions in the OAA allows for a better understanding of how to improve reauthorization language to better focus on the OAA’s priority vulnerable and isolated populations. In turn, an improved advocacy component will ensure that these older adults will have access to the services and programs they need to lift themselves out of poverty, improve the quality of their lives, and at the same time provide economic stimulus to their communities.

Current OAA Advocacy Provisions

The advocacy concept has been embraced since the inception of the Older Americans Act and within every subsequent reauthorization. Inclusion over many decades is an indicator of the level of importance that has been placed upon the critical role advocacy can play in improving the lives of older Americans. However, what's needed now is a concerted effort to examine the advocacy provisions as a whole to carefully consider how they work together, how they can be integrated and strengthened, and how we can improve them to support the aging network.

The Older Americans Act calls for advocacy at all levels, starting with the Assistant Secretary of the Administration on Aging. The Assistant Secretary is expected to:

“... serve as the effective and visible advocate for older individuals within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the federal government by maintaining active review and commenting responsibilities over all Federal policies affecting older individuals.” (Title II, Section 202(a)(1))

Under the Assistant Secretary, states are required to designate a state agency to:

“... serve as an effective and visible advocate for older individuals by reviewing and commenting upon all state plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals.” (Title III, Section 305(a)(1)(D))

Additionally, the OAA provides that states be served by area aging agencies, which shall:

“... serve as the advocate and focal point for older individuals within the community by (in cooperation with agencies, organizations, and individuals participating in activities under the plan) monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect older individuals.” (Title III, Section 306(a)(6))

The area plans must also:

“... contain an assurance that the area agency on aging will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals and older individuals residing in rural areas.” (Title III, Section 306(a)(4)(C))

The Act also includes advocacy provisions for specific service areas. Beyond the sections excerpted above, additional examples include:

- **Section 202** requires the Assistant Secretary to assist state aging units, area agencies on aging, and other aging network providers to assist with enrolling eligible seniors in Supplemental Security Income, the Supplemental Nutrition Assistance Program, Medicaid, Low-Income Home Energy Assistance Program, and other benefits. The Assistant Secretary is also directed to identify statutory and regulatory barriers and impediments to access.

- **Section 215** requires that in order for a pension counseling information program to receive a grant under the Act, it must “establish a system to make referrals for legal services and other advocacy programs.”
- **Sections 306 and 307** require that area and state plans provide for legal assistance as an access service, with a focus on issues impacting income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination. Coordination with the private bar and with legal services corporation-sponsored entities is mandated.
- **Section 314** requires that entities that provide in-home services “promote the rights of each older individual who receives such services.”
- **Section 413** requires that any state, local, or tribal entity receiving a grant for an older individual’s protection from violence project “expand access to family violence and sexual assault programs (including shelters, rape crisis centers, and support groups), including mental health services, safety planning, and legal advocacy for older individuals.”
- **Section 421** includes a provision that creates cooperative advocacy projects for individuals with developmental disabilities and individuals with mental illness.
- **Section 712** requires that long-term care ombudsman programs on the national, state, and local levels resolve complaints of long-term care residents about matters that adversely affect their health, safety, welfare, or rights as residents and citizens.
- **Section 712** further directs long-term care ombudsman programs to represent the interests of residents before governmental agencies and to seek administrative and legal remedies in the discharge of their obligation to assert the rights of long-term care residents.

Understanding OAA Advocacy: What It Is and What It Isn't

Advocacy has the potential to bring together all stakeholders to ensure that the varied programs contained within the reauthorized Act are efficiently and effectively targeted to improve the lives and economic security of those with the “greatest economic and social need.”

The first step toward this framework is to articulate a clear, shared understanding among the aging network and the seniors they serve regarding what advocacy is and what it is not. This is essential to appropriately direct the actions of those who have statutory advocacy responsibilities and to inform seniors, so they may advocate on their own behalf.

A key function of such a definition would be to explain the distinction between advocacy and lobbying. Many within the aging network misunderstand the scope of such activities, believing advocacy is synonymous with lobbying, and therefore precluded for those receiving federal funding. This had led to fear among some that they cannot express their views on the issues impacting older Americans and how to most effectively improve the aging experience in America.

Lobbying activities in support of or in opposition to a specific piece of proposed legislation have an important role to play to improve the lives of older Americans. However, lobbying is conceptually different from advocacy

TABLE 1: Advocacy or Lobbying: Some Examples

Advocacy	Lobbying
Telling your member of Congress how a federal grant your organization received has helped your constituents.	Asking your member of Congress to propose legislation that would fund more federal grants.
Educating a member of Congress about the effects of a policy on your constituency.	Emailing a “call to action” to your members urging them to contact their member of Congress in support of a policy.
Inviting a member of Congress to your organization so that he/she may see firsthand how federal funding or a policy affects day-to-day operations and the difference it makes.	Asking your member of Congress to write a letter in support of federal funding or a policy that helps your organization.

(Table 1), which is directed to policy and systems changes. Generally, lobbying has no place within OAA-funded activities (see Appendix A for a more detailed description of the distinctions between advocacy and lobbying).

Advocacy in this broad sense is the process of people as stakeholders

participating in decision-making that affects their lives and the lives of others at the local, state, and national level, and it has a role wherever change is needed. Advocacy can also mean helping policymakers find specific solutions to persistent problems.

Dimensions and Principles of Advocacy under the OAA

Three inextricably related dimensions define the scope of advocacy in the OAA:

One-to-one advocacy focuses on work to empower and improve access for individual vulnerable older Americans. This kind of advocacy can range from informal discussions with decision-makers to administrative appeals or even, when needed, litigation strategies. For example, a benefits counselor working with a client to obtain the benefits and services to which that person is entitled is engaged in one-to-one advocacy. The work might consist of person-centered education, counseling, and application assistance to ensure that the individual client is determined eligible for and receives services she qualifies for. This type of advocacy works to not only improve the individual's life, but also to bring economic stimulus to the community.

Systems advocacy is directed toward the mechanisms that “make things happen” by removing barriers or improving access to specific programs or processes. For instance, some older Americans may experience difficulty accessing needed services because the transportation system in their community is not meeting their needs. This problem offers an opportunity for advocacy efforts to bring together the population adversely affected and the aging network to craft viable solutions. A systems advocacy effort could include research on how transportation services are funded and how routes are planned so older Americans and the aging network can propose a course of action to the appropriate funder or service provider.

Policy advocacy is the dimension most often confused with lobbying because it aims to impact broad guidelines and policies at the federal and state levels that would affect older Americans across the country. When benefits counselors arrive at a consensus that an eligibility criterion no longer serves a useful purpose, they might come together to urge a legislative body to adopt a new rule. These counselors are engaging in policy advocacy to remedy an outdated rule for all who encounter it—educating policymakers about solutions that can resolve the issue for all who are affected, rather than addressing the problem for each individual who encounters the rule as a barrier.

Aging network advocates and older Americans have an essential role to play in educating policymakers and others about both the needs of their constituents and the impact of current and future legislation at the ground level. Providing policymakers and others, such as opinion leaders, with information and illustrative examples about the real day-to-day experiences of both older Americans and professionals in the field of aging is important to inform policy choices.

On-the-ground experiences provide the clearest opportunity for policymakers to learn about how programs are functioning, who is benefitting from them, and where changes need to be made. In this dimension, advocacy includes gathering information, developing proposed solutions, and understanding the most effective ways to collaborate and communicate with decision-makers. Thus empowered, advocates raise the voices of otherwise unheard members

of society—leading to policy that serves the needs of all older Americans, including the most vulnerable.

Five Principles of Advocacy

The following five principles serve as the foundation for all three dimensions of advocacy in the context of the reauthorized Older Americans Act:

1. Empower older Americans

Vulnerable older Americans—those experiencing the greatest economic and social need—must be empowered to advocate on their own behalf. Their voices often have not been heard, yet they know best the environmental and system challenges they face in striving for economic security and a quality life in their communities. They should be their own best advocates. A key component to reauthorization of the OAA should be engaging this cohort of older Americans. Their experiences must be understood and their voices amplified to tell their own story.

2. Integrate advocacy provisions and functions

While there are many advocacy provisions within the OAA, the obligations are not understood in a comprehensive, over-arching way. Thus, its requirements are often discharged in a scattered, inconsistent, and siloed fashion. This is contrary to provisions in the OAA today that provide for integrated and comprehensive advocacy collaboration.

Clarifying advocacy roles and responsibilities and defining the comprehensive nature of each requirement could help refocus the dialogue on program expectations and emphasize integration of the OAA's advocacy provisions, which would result in better outcomes for older Americans.

3. Education and training

Education and training are the building blocks of effective advocacy. Effective advocates are well-informed about the cause, case, or person being advocated for. This requires a thorough grounding in the background and nuances of the issue, as well as a good sense of the arguments in favor of and against the proposed solution.

In addition to knowing *what* they are promoting, effective advocates must know *how* to advocate. There is a skill set that makes advocacy effective in the sense that well-trained advocates know how to effectively participate in the process regardless of which dimension of advocacy they operate in. Because many of the techniques and processes are far from intuitive, many in the aging network will need access to training and education on the issues they identify, as well as on advocacy techniques.

Ongoing training enables continuous growth of good advocates and is essential to an enduring, successful advocacy culture around aging issues. This training includes a good understanding of how to communicate with different decision-makers, on what timeline, and with what needed kinds of background information and proposals for strategic solutions and improvements. Without this level of education, advocacy efforts are susceptible to attack and failure.

4. Accountability

The classic maxim provides that “what gets measured gets done.” Much of the current data collection within the aging network focuses on process—what activities are undertaken and in what quantity. This is important data to collect and analyze, yet *outcomes* measures are equally critical to assess whether advocacy efforts have successfully led to positive change.

Moreover, a robust program of oversight of the advocacy provisions within the aging network is required to ensure that they are put into action. Successful oversight requires both qualitative and quantitative process data measures and outcomes and impact measures. Developing well-conceived quality measures (including process *and* outcome) for required data reporting will hold all components of the aging network accountable for their responsibilities contained in the OAA.

While evaluating process measures provides an opportunity to enhance programmatic and service delivery, assessing impact ensures fulfillment of the overarching objectives of the Older Americans Act. This does not mean simply collecting or reporting *more* data. Rather, thoughtful measures must be created that will tell the advocacy story of the aging network. This means that information collected must be specific and relevant to outcomes, so that data collection does not become an irrelevant or burdensome task.

5. Independence

As previously discussed, many stakeholders within the aging network erroneously believe that advocacy is synonymous with lobbying. Consequently, programs may bar or severely restrict work that should fall within the scope of *required* advocacy under the excuse that “federally funded programs can’t lobby.” Misunderstandings thus muzzle appropriate debate in many dimensions of advocacy.

The independence of advocacy roles and responsibilities must be protected. The Long-Term Care Ombudsman Program has long grappled with these issues (see next section for further discussion); extension of the rules protecting the independence of ombudsman staff and volunteers may contribute significantly to the appropriate discharge of advocacy provisions.

A Special Case: OAA Advocacy Well-Defined and in Action

In contrast to all other advocacy provided for by the Older Americans Act, two programs have their advocacy mandates well-defined for them. They may provide insight into how advocacy can positively impact the lives of older Americans, demonstrate the five principles in action, and highlight remaining challenges.

Long-Term Care Ombudsmen

Long-term care ombudsmen are charged under the Older Americans Act with advocating for the rights of long-term care facility residents to maintain quality care and quality of life. They do this by educating residents, providers, and the public; resolving residents' complaints; and providing policy, regulatory, and legislative recommendations to improve the health, safety, welfare, and rights of residents.

In order to meaningfully discharge these duties, it has long been recognized that ombudsmen need certain tools and protections. These include access to long-term care residents and protections against retaliation when they engage in activities in all three dimensions of advocacy.

Ombudsmen must be trained in the rules governing long-term care facilities and in the techniques underlying their required advocacy functions. All of these prerequisites are provided explicitly within the OAA. Section 712 contains provisions that afford ombudsman programs access to residents and protect them from conflicts of interest and from political interference in the discharge of their duties. The Act defines the training they must receive. Moreover, as needed, they

must have access to legal counsel regarding their work.

These provisions should be viewed as a model that could be expanded to support the advocacy provisions found throughout the Act.

Legal Assistance

Legal services for the elderly, especially for the most vulnerable, are an essential element of the OAA. Legal assistance providers understand and can robustly deliver all three dimensions of advocacy. These providers are often the last hope for vulnerable seniors in crisis.

Seniors in crisis may turn to legal assistance providers for help accessing, receiving, and retaining the benefits and programs for which they qualify, which offer them income, food, health care, and energy assistance. Moreover, legal assistance providers often help seniors defend themselves against unjust foreclosures and evictions and keep seniors in their own homes. They also help seniors assert their rights to quality care and a quality of life in residential long-term care settings, and defend the autonomy of frail seniors by fighting against unwarranted imposition of guardianship. They are able to deliver results to their clients by employing a full range of strategies across all three dimensions of advocacy.

Under the Older Americans Act, legal assistance providers are tasked with maintaining the skills and knowledge to pursue elder law matters with tremendous social return but with no potential to generate fees—matters that the private bar therefore eschews. Indeed, legal assistance

providers often deal in matters even Legal Services Corporation programs are not well-equipped to handle. They are well-positioned to identify policy and systems flaws amenable to resolution through application of all three dimensions of advocacy. And they apply the same person-centered philosophy that makes the aging network so uniquely dedicated to improving life for older Americans. Perhaps this explains why legal assistance has consistently been positioned as an OAA mandatory access services that must be offered in all parts of the country.^x

The Challenges for Legal Assistance

However, obstacles have stood in the way of realizing the full potential of OAA legal assistance. Currently in most states, area agencies on aging (AAAs) divide a small percentage of Title III-B monies on the local level. This has often resulted in diluting the effectiveness of the III-B legal assistance offered in some geographic areas, with small sums distributed to many III-B service providers. In many areas, the sum is so small it buys only a few hours of a private attorney's time. In these instances, the requisite skills and knowledge required to represent seniors with the greatest economic and social need may be lacking.

Coordination with existing legal services programs and working relationships with the private elder law bar vary widely from

state-to-state and within states. This causes inconsistencies and loss of efficiencies in deployment of scarce resources. Not consistently utilized, legal assistance is far too often fragmented, resulting in seniors getting less than the high-quality legal services they deserve.

Finally, legal assistance programs are often overwhelmed with demand in emergency cases, and these offices often feel isolated in responding to a seemingly never-ending stream of would-be clients desperate for immediate relief. Moreover, as AAAs assume a more involved role in delivering home and community-based services and participating in determination of entitlement to services, conflicts of interest may deprive legal assistance providers of the resources and independence they need to fulfill their role.

All too frequently, few incentives exist to encourage collaboration with other components of the aging network working with the same population on similar issues of economic security, adequate community supports, and improvements to the quality of life for the frailest and most vulnerable older Americans. The resultant disconnects and failures of understanding and communication with the rest of the aging network detracts from the central role legal assistance could assume in protecting the rights and access to services of older Americans with the greatest economic and social need.

A Way Forward: Recommendations for OAA Reauthorization

The 2011 OAA reauthorization presents a unique opportunity to make significant improvements to the advocacy provisions under the Act to take this important function “off the page” and transform it into a robust component of the Act and model for other programs. The reauthorization should establish a structure that encourages all components within the aging network to collaborate and work as a *networked* resource that can be leveraged to engage in increased advocacy to produce more robust and impactful person-centered, community-based policies, initiatives, and systems to effectively and efficiently improve the lives of older Americans.

We include the following specific recommendations for OAA reauthorization:

1. Define advocacy to help engage the aging network.

Many conflicting definitions and policies exist, particularly with regard to distinctions drawn between advocacy and lobbying. A uniform definition included in the definition section at the beginning of the statute would provide much-needed guidance to individuals and organizations about their advocacy requirements.

While there are currently 54 definitions included in Section 102 of the Older Americans Act, ranging from “abuse” to “tribal network,” “advocacy” is not defined (notwithstanding that the term is used 17 times throughout the Act). A definition may help to eliminate confusion or misunderstanding about what the OAA requires in terms of advocacy. It will also

ensure that there is a consistent degree of advocacy on behalf of and with older Americans across the country, instead of the current inconsistencies.

We recommend that the 2011 reauthorization include in Title I, Section 102 a definition of “advocacy” that integrates the three dimensions and five principles articulated within this paper.

2. Provide needed support for education and training on advocacy.

Effective advocacy is not necessarily a skill acquired through normal service delivery, and there are few regular training opportunities through which the requisite skills may be acquired. The OAA should include resources (both financial and through access to experts) to help train members of the aging network in how to be effective advocates on behalf of and with older Americans. Skill development would help advocates identify and understand issues, engage with the appropriate parties to find appropriate solutions, and work effectively and collaboratively with partners, including older Americans.

Likewise, older Americans, particularly those in the targeted priority populations, may not have the skills for engaging in effective advocacy on their own. They should have opportunities to learn how to advocate in all three dimensions and deepen their education on critical issues facing an aging population. AoA should monitor education and training to assure it is accurate and objective.

There are existing programs around the country that train older Americans in the various aspects of advocacy, including skills such as how to speak with decision-makers, how the legislative process works, and how to sign up for and register to speak up at hearings and other pertinent venues. Although these programs are offered within limited specific geographic localities, a more robust menu of training programs to disseminate these resources and trainings to older Americans and the aging network in communities across the nation would revitalize the OAA advocacy provisions.

This could be achieved by adding an additional section to Title II of the Older Americans Act that is modeled after the current Section 214 (Nutrition Education^{xi}). Because advocacy permeates the entire statute and network, it is appropriate for placement under the responsibilities of the Assistant Secretary.

Education and training resources can promote the central role that advocacy plays in the OAA and in the aging network and enables the network to obtain the skills and knowledge needed to fulfill their obligations.

3. Create advocacy reporting measures.

We recommend that AoA work with stakeholders to develop advocacy reporting measures that can be easily used by the aging network and are focused on outcomes as well as process elements.

These data should not create more paper and “busy work” for already over-burdened aging network providers. The goal of the advocacy reporting measures must be to tell the story of advocacy being conducted by different programs and individuals, and how that advocacy impacts older Americans individually and collectively by improving

the lives of older Americans with the greatest economic and social need, since it is these populations that are suffering the most in the current economic hard times. Having an advocacy reporting system in place also allows the aging network to learn and benefit from promising practices in the area of advocacy in other areas of the country. This will help strengthen the available resources for older Americans to utilize demonstrably successful advocacy models.

In addition to establishing appropriate advocacy reporting measures to assure accountability for the advocacy provisions, we recommend adding language to current Part II of the OAA to emphasize the importance of advocacy.

The Older Americans Act Title II, Section 206a (Evaluation) could be amended to include, “the effectiveness of the advocacy provisions related to the Assistant Secretary, state units on aging, area agencies on aging, and other applicable services providers.”

Adding this language to the evaluation section, along with creating advocacy reporting measures and providing resources and expertise for advocacy training will further highlight the important role that advocacy plays among aging service providers.

4. Impose oversight and enforcement of advocacy provisions.

Oversight and enforcement of the Act’s advocacy provisions has been historically weak, and compliance has been correspondingly inconsistent. Improvement should begin at the top and infuse the aging network infrastructure. We urge adoption of amendments to strengthen oversight with the reauthorization of the Older Americans Act to improve the aging network’s ability to engage in advocacy on behalf of and in partnership with older Americans.

5. Strengthen legal assistance.

Legal assistance is often the last hope for seniors to open the doors to needed services and benefits and seek redress for grievous wrongs in areas such as debt collection and mortgage foreclosure. The Older Americans Act reauthorization should emphasize better collaboration within the aging network as a whole and more strategic delivery mechanisms for legal assistance. Specifically, we recommend three actions:

- **Form a National Advisory Group to advise AoA and elder legal services providers.** AoA should fully leverage expertise in all three dimensions of advocacy by creating a national advisory group to “assist the Administration on Aging in the development of standards and procedures for both state entities that distribute or utilize funds and legal services providers who seek to be recipients of funding.”^{xii} This advisory body would be a low-cost means of obtaining expertise and would be well-positioned to advise AoA, as well as individual legal services organizations, about how to set appropriate standards for the dissemination of funds and the best use of the funds by legal services providers in each state. Moreover, the national advisory group could advise legal assistance providers and state-level managers as to how to most effectively meet the needs of their clients in conjunction with applicable statutes and regulations.

Possible representative nonprofit stakeholders with expertise in diverse legal aging issues include: the National Senior Citizens Law Center,^{xiii} the American Bar Association Commission on Law on Aging,^{xiv} the National Consumer Law Center,^{xv} the Center for Elder Rights Advocacy,^{xvi} the Center for Medicare

Advocacy,^{xvii} the National Council on Aging,^{xviii} and other AoA-funded resource centers whose programs would benefit from robust legal assistance and legal assistance developers.

- **Strengthen statewide legal assistance delivery.** The legal assistance developer position was included in the OAA to be the leader in the state and provide guidance and set the agenda for services that would be provided in the state.

To date, this position has not consistently achieved the intended goals as described in the statute. The importance of the legal assistance developer was expressed by the ABA Commission on Law on Aging when it said, “Without an effective developer, legal assistance can stray into a scattershot array of providers lacking consistency and strength.”

Although the Older Americans Act Section 731 includes specific requirements for the legal assistance developer, the experience of legal assistance developers varies across states. For example, in some states the legal assistance developer is not an attorney, and in other states the position is not full-time, even though the job description would take a full-time, dedicated person to address tasks appropriately. A stronger legal assistance developer in each state would help ensure that the statutory requirements are carried out for the benefit of older Americans in need of legal assistance.

We believe the statutory description contained in the Act prior to the 2000 amendments is better suited to the challenges of coordinating legal assistance and should be reinstated. It more adequately paralleled the comprehensive charges to the state long-term care ombudsman position and would be

appropriate to meeting the challenges presented to contemporary legal assistance developers. The position should be required to be held by a person with a legal degree and sufficient experience in working with the target population and the aging network to fully understand the ongoing needs of the population and how to work with the individuals who are providing the day-to-day legal assistance. We urge full implementation of the legal assistance developer position as described in Section 731 in all states.^{xx}

In addition, the legal assistance developer in every state should be free from political and other influence to set the priorities and address issues as necessary. Having an independent legal assistance developer is the only way that vulnerable older Americans will receive the legal services to which they are entitled.

6. Ensure that advocacy functions within the OAA are protected against undue interference.

We recommend that AoA build into all the advocacy provisions protections similar to those found within Section 712(j), which make willful interference with the official functions, including advocacy, of the ombudsman illegal and prohibit retaliation or reprisal against ombudsmen, residents, or anyone who provides information or cooperates with ombudsman activities, including advocacy.

7. Strengthen the transparency requirements for state units on aging and area agencies on aging annual and long-term plans and funding disbursements.

The current funding flow for OAA programs and services generally begins with the Administration on Aging and flows to the state unit on aging, then to the local area agency on aging, and then to local service providers.

Because of the way the system is designed, it is critical for all interested parties, most notably older Americans and the components of the aging network, to play an active role in the annual and long-term plans that the SUAs and AAAs have in place. These processes have a real, direct impact on the amount (if any) of funding an organization or provider will get from year to year. It is also crucial for members of the aging network to have their voices heard as to the priorities that are being set for near and long-term goals.

To make the planning and funding processes as open, transparent, and accessible as possible for every provider in the network, the transparency requirements should be strengthened in the Older Americans Act. The Act requires AAAs to develop an area plan and for states to develop a state plan for submission to the AoA Assistant Secretary. There is opportunity in the development of these plans to include individual and organizational stakeholders so that they have a voice in the way funds are to be distributed, the priority levels that will be set on different issues, and generally how the aging network will be run in the state. This input is critical if the area and state plans are to be reflective of the experts in the field and free from as much bias as possible.

Title III, Section 306 (Area Plans) and Section 307 (State Plans) both should include language that specifically requires input from stakeholders who wish to make their voices heard in the development of each plan. For example, currently Section 307(a) (4) (regarding State Plans) reads:

“The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out in the State under this title and title VII, including evaluations of the effectiveness of services provided to individuals with greatest economic need, greatest social need, or disabilities (with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas).”

In the OAA reauthorization, we recommend that a new paragraph (2) be inserted in Title III, Section 306(a) (regarding Area Plans) to read:

“... be developed in accordance with input from local and direct service providers, consumers, independent experts, and others in the planning services area who have an interest in the development of the plan, particularly as it pertains to determining community needs, indentifying priority issues, and proposing solutions. Additionally, people affected by the plan shall have ample opportunity before the plan is submitted to provide recommended feedback and comment.”

Technology offers great potential to expand transparency in developing state and local plans. No longer should hearings be exercises in endurance because testimony and hearings can be conducted online, supplemented by face-to-face encounters. Enhancing the requirements for AAAs to receive input from stakeholders, which reinforce the mandates of SUAs, is necessary to the development of area and state plans that are reflective of the range of organizations providing services to older Americans and of older Americans themselves.

Conclusion

The Older Americans Act was intended to provide the supports needed to ensure that older Americans with the “greatest economic and social need” would be able to secure access to needed health care and find the path to a more economically secure and high-quality life. Advocacy assumes a critical role in that the efforts of all those in the aging network—from the Assistant Secretary to

every local service provider—are and remain driven by a foundation of empowering older Americans and complimenting their choices through service delivery. Establishing such an aging network focus, along with strengthening advocacy provisions, would enable and grow meaningful collaborations and partnerships to promote the autonomy and dignity of each and every older American.

Appendix: Advocacy or Lobbying?

What is advocacy?^{xxi}

- Advocacy involves “speaking up” to draw attention to an important issue or problem.
- Advocacy is the process of people participating in decision-making that affects their lives and the lives of others at the local, state, and national level, and it has a role wherever change is needed.
- Advocacy can also mean helping policymakers find specific administrative or legislative solutions to persistent and seemingly intractable problems.

What are some examples of advocacy?

- Advocacy can be at the **individual level**, such as the use of case management and counseling to resolve individual issues.
- Advocacy can be at the **systems level**, such as public education, communications activities, social marketing, media outreach, and building local partnerships.
- Advocacy can be at the **policy level**, such as bringing examples of why a change is needed in legislation to your members of Congress.

What is lobbying?^{xxii}

Any attempt to influence specific legislation by:

- Stating a position on specific legislation to legislators or other government employees who participate in the formulation of legislation.
- Urging your members or the general public to contact their legislators with a position on specific legislation (a “call to action”).

What activities are considered lobbying?

- Explaining your position on specific legislation to policymakers; this includes asking legislators to support, oppose, or propose legislation.
- Asking your members or the general public to contact policymakers to state a position on specific legislation; again, this includes asking legislators to support, oppose, or propose legislation.

How is lobbying different than advocacy?

- Lobbying is a type of advocacy; lobbying is advocacy for specific legislation. Organizations may engage in advocacy that is not considered lobbying if it is not regarding specific legislation.
- Advocacy is more focused on education; lobbying is more focused on persuasion.
- There are no limits to how much advocacy organizations may do, but there are limits on lobbying.

Advocacy or Lobbying: Some Examples

Advocacy

Telling your member of Congress how a federal grant your organization received has helped your constituents.

Educating a member of Congress about the effects of a policy on your constituency.

Inviting a member of Congress to your organization so that he/she may see firsthand how federal funding or a policy affects day-to-day operations and the difference it makes.

Lobbying

Asking your member of Congress to propose legislation that would fund more federal grants.

Emailing a “call to action” to your members urging them to contact their member of Congress in support of a policy.

Asking your member of Congress to write a letter in support of federal funding or a policy that helps your organization.

More Resources

For additional information on advocacy and lobbying, please visit the following websites:

- Independent Sector, www.independentsector.org
- OMB Watch, www.ombwatch.org
- Alliance for Justice, www.afj.org
- Whys and Wherefores: An Introductory Manual for Members of Boards of Trustees and Advisory Councils, www.cas.muohio.edu/n4a/Manual%20Home.htm#TOC

References

- ⁱ For more information on the aging network, visit the Administration on Aging website at www.aoa.gov.
- ⁱⁱ For more information on the aging network, visit the Administration on Aging website at www.aoa.gov.
- ⁱⁱⁱ Federal Interagency Forum on Aging Related Statistics. *Older Americans 2010: Key Indicators of Well-Being*. www.agingstats.gov/agingstatsdotnet/Main_Site/Data/2010_Documents/Docs/OA_2010.pdf
- ^{iv} Kaiser Family Foundation. *Medicare: A Primer*. www.kff.org/medicare/upload/7615-03.pdf, citing M. Gornick, et al, “Twenty Years of Medicare and Medicaid: Covered Populations, Use of Benefits, and Program Expenditures,” *Health Care Financing Review*, 1985 Annual Supplement.
- ^v Older Americans Act Section 102(a)(23).
www.aoa.gov/AoARoot/AoA_Programs/OAA/oa_full.asp#_Toc153957624
- ^{vi} Older Americans Act Section 102(a)(24).
www.aoa.gov/AoARoot/AoA_Programs/OAA/oa_full.asp#_Toc153957624
- ^{vii} Kaiser Family Foundation. *Characteristics of the Medicare Population*.
<http://facts.kff.org/chart.aspx?ch=1926>
- ^{viii} Ortiz, H. *Crossing New Frontiers: Benefits Access Among Isolated Seniors*. National Center for Benefits Outreach and Enrollment: May 2011. www.centerforbenefits.org/Isolated_Populations_IB.pdf
- ^{ix} The Assistant Secretary’s role also includes advocacy beyond the aging network.
- ^x Title III-B, Section 321 mandates access services, including legal assistance.
- ^{xi} The Assistant Secretary, in consultation with the Secretary of Agriculture, shall conduct outreach and provide technical assistance to agencies and organizations that serve older individuals to assist such agencies and organizations to carry out integrated health promotion and disease prevention programs that:
 - (1) are designed for older individuals; and
 - (2) include
 - (A) nutrition education;
 - (B) physical activity; and
 - (C) other activities to modify behavior and to improve health literacy, including providing information on optimal nutrient intake, through nutrition education and nutrition assessment and counseling, in accordance with Section 339(2)(J).
- ^{xii} American Bar Association, Commission on Law and Aging. *Report to the House of Delegates*. 2010.
- ^{xiii} For more information on the National Senior Citizens Law Center, please visit www.nsclc.org.

^{xiv} For more information on the American Bar Association Commission on Law and Aging, please visit <http://new.abanet.org/aging/Pages/default.aspx>.

^{xv} For more information on the National Consumer Law Center, please visit www.nclc.org.

^{xvi} For more information on the Center for Elder Rights Advocacy, please visit www.legalthotlines.org.

^{xvii} For more information on the Center for Medicare Advocacy, please visit www.medicareadvocacy.org.

^{xviii} For more information on the National Council on Aging, please visit www.ncoa.org.

^{xix} American Bar Association, Commission on Law and Aging. *Report to the House of Delegates*. 2010.

^{xx} Older Americans Act Section 731 states that:

A state agency shall provide the services of an individual who shall be known as a state legal assistance developer, and the services of other personnel, sufficient to ensure:

- (1) State leadership in securing and maintaining the legal rights of older individuals;
- (2) State capacity for coordinating the provision of legal assistance;
- (3) State capacity to provide technical assistance, training, and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons, as appropriate;
- (4) State capacity to promote financial management services to older individuals at risk of conservatorship;
- (5) State capacity to assist older individuals in understanding their rights, exercising choices, benefiting from services and opportunities authorized by law, and maintaining the rights of older individuals at risk of guardianship; and
- (6) State capacity to improve the quality and quantity of legal services provided to older individuals.

^{xxi} Health Assistance Partnership. *Things to Consider: SHIPs and Advocacy*. www.hapnetwork.org/assets/pdfs/Things-To-Consider-SHIPs-Advocacy-Final.pdf

^{xxii} Independent Sector. *Lobbying Guidelines for Public Charities*. www.independentsector.org/charity_lobbying



More Resources on Older Americans Act Reauthorization

A Blueprint for Increasing the Economic Security of Older Adults: Recommendations for the Older Americans Act

www.NCOA.org/blueprint

Read NCOA's recommendations to strengthen the OAA to ensure that the aging network is operating squarely within a framework of economic security.

Leadership Council of Aging Organizations: Consensus Recommendations for the 2011 Older Americans Act Reauthorization

www.NCOA.org/LCAO

See what leading national aging organizations agree are the key issues to be addressed in reauthorization.

Older Americans Act Funding & Reauthorization

www.NCOA.org/OAA

Explore current and proposed funding tables for the OAA, as well as recommendations for reauthorization.



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