

**GUIDE TO THE DEVELOPMENT OF
STATEWIDE STANDARDS FOR THE DELIVERY
OF LEGAL ASSISTANCE TO OLDER INDIVIDUALS**



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PART I

**GUIDELINES FOR
DEVELOPING STATEWIDE STANDARDS**

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GUIDELINES FOR DEVELOPING STATEWIDE STANDARDS

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I. INTRODUCTION

Statewide standards can be defined as a set of guidelines which describe and define the essential elements involved in providing high quality, high impact legal assistance to older persons, and which set out the major responsibilities and roles of the actors and agencies involved in the legal advocacy system. **The Older Americans Act now requires all states to develop such standards.**

Following is a **step-by-step guide to the process** of developing statewide standards, based on the experiences of 18 states which have worked with The Center for Social Gerontology (TCSG) to develop standards over the past five years. The process described represents our current thinking on how best to approach this task, and reflects the learning from the many and varied experiences of the different states. The Guide has been reviewed by the Administration on Aging and the process endorsed by the Assistant Secretary for Aging, Fernando Torres-Gil, as a good approach to developing effective standards that will be accepted and followed.

II. BACKGROUND

A. Background on Title VII

An important result of the recent reauthorization of the Older Americans Act (OAA) has been the emergence of advocacy and elder rights as a major focus for the efforts of the aging network. This development is reflected in the addition of a new Title VII -- Vulnerable Elder Rights Protection Activities. Title VII re-establishes the advocacy focus that characterized the OAA originally, and makes it clear that Congress views the Act as a vehicle for ensuring that older individuals, especially the most vulnerable, have essential rights protected and have access to benefits to which they are entitled.

Title VII strengthens four advocacy programs as the key elements of a vulnerable elder rights protection system: long term care ombudsman; elder abuse prevention; legal assistance; and benefits and insurance counseling. Chapter Four of Title VII is entitled "State Elder Rights and Legal Assistance Program." It contains a number of provisions which seek to strengthen legal services and enhance capacity to advocate vigorously for the rights of vulnerable elders. Among these is the requirement that each state *"develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals. . ."* (Section 731(b)(3)(A))

B. Background on Standards Development and Its Value

Since 1988, as part of a grant from the US Administration on Aging to act as a national support center in law and aging, TCSG has offered technical assistance visits to individual states to work with the State Office on Aging, Area Agency personnel, legal assistance providers, and relevant others on tasks designed to improve legal assistance. Often, the problems states were seeking to solve involved issues that TCSG staff came to recognize could be more easily addressed if the state had **a uniform set of expectations about how legal services should be designed, operated and funded, and a more coherent view of the goals** of the legal assistance system. Legal Services Developers in various states also began to recognize the need for a more comprehensive approach to the provision of legal assistance.

Thus, TCSG and the National Association of Legal Services Developers (NALSD) began to promote the idea of developing statewide standards for legal services, which would define the essential elements and responsibilities involved in planning and operating high quality, high impact legal assistance programs. Now, as noted, the 1992 OAA Amendments (Section 731(b)(3)(A)) bring a requirement that all states develop statewide standards. We view this requirement as an opportunity for all states to benefit from something that has been very productive where standards have already been developed.

In our experience, the **process** of developing standards can be **as important as the standards themselves**. It can bring together all relevant actors, to discuss essential elements of effective, targeted legal assistance and what strategies and techniques can best assure that these elements are incorporated into the system across the state. It allows the different groups involved in the system to come to a shared understanding of what legal assistance can and should be, and to develop a shared commitment to cooperative advocacy efforts to achieve this ideal. Beyond this, the process provides an opportune vehicle for preliminary elder rights planning, as those relevant to standards development are the same people who should be involved in assessing and prioritizing issues for elder rights advocacy.

We also believe, based on experience, that the process used is key to whether standards will be accepted and followed by the network and whether they will significantly affect the impact that a state's legal assistance system has on essential rights and benefits of vulnerable older persons. The process **must be a cooperative effort** and must involve representatives of all groups who are expected to administer or be governed by the standards. People have an investment in standards they create themselves and an interest in ensuring that they achieve their purpose.

This **Guide is** therefore **focused on the process** of developing standards, rather than their content.

III. INITIAL PLANNING

Careful advance planning is essential to an effective standards development process. In each state that has worked with TCSG, substantial planning has been done; and it is usually the state Legal Services Developer (LSD) who takes the lead in organizing the effort. Where the State Directors on Aging have been involved as well, their input and support have been invaluable.

A. Review of Purposes of Standards & Development Process

The planning typically begins with the LSD reviewing and discussing the purposes and benefits of standards. The first item in the Supplemental Materials, Statewide Standards for Legal Assistance Under Title VII of the Older Americans Act Amendments of 1992, (p. S-1) gives an overview of purposes, outlines critical aspects in the process of developing standards, and the value of involving in a **cooperative process** all groups expected to administer, or be governed by the standards. This overview also discusses the major elements of standards -- targeting, elder rights, and quality assurance -- and specific topics or issues for which standards might be set. We feel this overview can give those involved in developing standards a basic understanding of what standards should involve and what they can achieve. A second document that is also helpful in reaching an initial understanding of what standards can accomplish is Why Standards, which was developed by the Standards Task Force in New Jersey during their standards development process in 1991. This is included as the second item in the Supplemental Materials. (p. S-6)

B. Discussion of Standards with State Office on Aging Staff

As an initial step in the planning, the LSD can discuss the overview and Why Standards described above with the Director and other state office staff who may have an interest in the project, and determine whether there is consensus that the concepts and process, as outlined there, seem appropriate for their state.

C. Discussion of Standards with AAA's and Legal Providers

It is also helpful, at this initial stage, to discuss developing standards with some of the staff from Area Agencies and legal assistance providers. Others whom it may be helpful to include in discussions at this point are the Legal Services Corporation office (even if no LSC offices are providers), people from the State Bar Elder Law Committee, someone from the Office of General Counsel, etc.

D. Explanation of Benefits for all Levels of Legal Assistance System

State Directors, Area Agency staff and providers will be more likely to support developing standards if they can be made aware of the benefits that standards can afford to each of them, *e.g.* --

1. At the State level -- standards can help to create and maintain a more uniform level of quality, and an acceptable level of quality, in the legal assistance that is being provided to older people across the state.
2. At the Area Agency on Aging level -- standards can help Area Agency staff understand what constitutes a good legal assistance program, and help them prepare requests for proposals, review proposals, monitor and evaluate the quality of their legal programs. The standards development process can help Area Agency personnel understand the value of legal assistance for older persons.
3. At the legal provider level -- standards can clarify for providers what elements they should strive to include in their programs, and make explicit what the minimal expectations are. They can also clarify AAAs responsibilities with respect to providers.

For all three levels, the opportunity to communicate with each other about their concerns and expectations, and the chance to cooperate in creating standards that embody their consensus on these issues, is extremely productive, and seems, in fact, in many states, to be one of the major benefits of developing standards. The LSD needs to make all of these benefits known early in the planning stage.

E. Enlisting Assistance of Outside Facilitator(s)

Many states that have developed standards have found it is very **beneficial to have outside, neutral facilitator(s)** participate in the development process. This person or persons can often hear what people are really saying more accurately than someone who is caught up in the politics, history, etc. of the situation. The facilitator can help ensure that all voices are heard and that the standards reflect the legitimate interests and concerns of all elements present. This facilitator role could be filled by TCSG or staff from one of the other AoA-funded national support centers in law and aging. Legal Services Developers from states that have already developed statewide standards might also serve in this capacity.

The task of the facilitator(s) is both demanding and crucial to the success of the process; thus it is important to select the best available person(s). TCSG recommends using two co-facilitators rather than one. This allows switching the lead between the two, so that each has some time to reflect on, and digest, what Task Force members are thinking, saying, and feeling about the issues. This reflection time is particularly important when a sensitive and long-standing problem or misunderstanding is being discussed.

In selecting facilitator(s), it is important to consider both skills and knowledge. They must be skilled in guiding and keeping the discussions on track, but without dominating. They cannot allow themselves to be drawn into any debates, but rather must be able to listen carefully to all sides, identify points on which there is agreement or disagreement, clarify those points, and then try to

help the group resolve the disagreements -- essentially they must serve as mediator. Often resolving disagreements necessitates clarifying for the group what is required by the Older Americans Act or regulations, thus the facilitator(s) must have expertise on the law and regulations. Often it requires educating non-lawyers about attorneys' Codes of Professional Responsibility, for example on questions of confidentiality about the identity of clients. The facilitator(s) must be knowledgeable about what comprises a high quality, high impact legal program, they must know what is needed from the state and area agencies in order to have an effective legal advocacy system, they must be aware of existing problems in the state's system; and they must be sure that all these things are addressed by the Task Force. And they must be able to listen, understand, condense, and quickly capture on a flip chart, the consensus of the Task Force on goals, issues and problems that standards need to address, and what the standards should say about those issues.

IV. OUTLINE OF PROCESS OF DEVELOPING STANDARDS

The following is a brief outline of the process that has been used successfully in a number of states. The individual elements in the outline are discussed in more detail below.

- A. Selection and Recruitment of Task Force (10-15 persons).
- B. Working Session of Task Force, with a facilitator, to discuss and identify goals, issues that standards should address and to define content of the standards. (A suggested three-day agenda is included in the Supplemental Materials.)
 - 1. Detailed notes taken of discussion at Task Force meeting
 - 2. Major issues and ideas recorded on flip chart
- C. Drafting of standards by one or two persons or a small team, based on the discussions and consensus at the Task Force meeting(s).
- D. Circulation and redrafting.
 - 1. Circulate first draft to Task Force for reactions, suggestions
 - 2. Redraft based on reactions of Task Force
 - 3. Circulate to wider segment of law and aging network for more input and feedback
 - 4. Draft final standards based on this feedback
 - 5. Circulate standards to entire law and aging network.
- E. Formal adoption of final standards -- by State Unit and/or other appropriate entity.
- F. Training session(s) on standards, their value, implementation, etc., for entire law and aging network (Suggested approaches are included in the Supplemental Materials.)

While this process may seem arduous and consuming of time and resources, those who have gone through it have found the process itself to be very productive and rewarding, and the results to be gratifying. Rather than producing a document that people file and ignore, it tends to create a product that truly has an effect on the activities of those in the legal advocacy network. This is because all elements in the network have contributed to its creation, have endorsed the principles that the standards embody, and have become aware of the benefits of working together to actualize these principles. The State Unit can enhance the standards' effectiveness by encouraging all those in the system to refer regularly to the **standards as the benchmark for what their programs should be trying to achieve.**

V. STEPS IN THE STANDARDS DEVELOPMENT PROCESS

A. Selection and Recruitment of a Task Force

Once there is agreement on the process to follow in developing standards, the next step is to put together a Task Force to work on them. As discussed above, developing standards is best accomplished by a Task Force representing the major actors in the legal advocacy system to which the standards will apply -- staff from State Units and Area Agencies on Aging, legal providers, etc.

The selection of appropriate representatives on the Task Force is crucial. We cannot recommend precisely who should be selected, since that will depend very much on the situation in each state. But we do have some suggestions based on the experience of states which have used the task force approach.

1. **Don't recruit by asking for volunteers**--decide who would be the best people to be on the Task Force and invite them to participate. Standards should be the product of a process that considers as many perspectives as possible, because individuals with all those perspectives will be using and responding to them. Invite the people you think would be best in terms of getting **a good representation of the viewpoints that are present in the law and aging network.** The group should include representatives of the State Office, Area Agencies, and legal assistance providers representing your different delivery models (LSC offices, private attorneys, law school clinics, etc.) In some states, the Task Force has included Ombudsman, representatives of the State Bar, LSC administrators, etc. (A sample letter of invitation to Task Force members and a Response Form are included in the Supplemental Materials. Pp. S-7-8.)
2. There is sometimes resistance to standards because people perceive them as imposing unrealistic obligations that can't be met, etc. It is helpful to deal with this resistance on the Task Force itself, where dialogue and airing of different viewpoints can take place. Try to get

strong, talented people who would be **likely leaders in supporting or opposing the standards**, such as a AAA Director who might feel legal assistance is not as important to older people as the other services that the Agency offers, or a provider who feels standards only impose burdens on the legal assistance programs without affording any benefits, or a AAA Director who believes that strong, well-supported legal programs provide essential protections to the rights of older individuals. If such people become convinced of the value of standards and can participate in their creation, it will facilitate broad acceptance of the standards that ultimately result.

3. As noted above, it is a good idea to include some people on the task force who are not particularly supportive of legal services. Through participating in developing the standards, these people can become educated to the significant benefits that older persons can achieve through high quality, high impact, targeted legal assistance. In particular, a AAA Director who undervalues legal assistance may be impressed by the thinking of the AAA Director who does recognize its value, and can articulate convincing reasons from the AAA perspective.
4. Be sure to explain to Task Force members the importance of, and what will be involved in, the standards development process so they will understand that participation involves a serious commitment of time and effort. Included in the Supplemental Materials is a sample memo to the Task Force to prepare them for the work sessions. (P. S-9)

B. Task Force Meeting to Establish Goals and Define Content of Standards

The Supplemental Materials include a sample agenda for the meetings in which the entire Task Force meets to work on developing the standards. (Pp. S-11-13) Experience has indicated that this process usually takes three days. In several states, the process has been attempted in two days, but participants have usually felt that a third day was really needed. If the second day can fall after a weekend, this allows for putting together a good outline of the work done on the first day, which then forms the basis of the following two days' work. (See further discussion at section B. 3. below.)

Since Task Force members come from around the state, it is most efficient to have a session of two or three days close together. Another good approach is to have a two-day Task Force meeting, followed by some drafting by a small team of two or three, and then a third day for the entire Task Force a few weeks later, to finish discussion of issues, and to react to some of the initial drafting.

1. Introductory Phase of the Task Force Meeting.

- a) As the sample agenda indicates, it is helpful to begin with a brief overview of what the Task Force work days will involve, and what the whole process of developing standards will involve.
- b) Then, an overview by the facilitator, or some appropriate person, of the requirements for legal assistance under the Older Americans Act and the regulations, with special emphasis on Title VII and the elder rights initiative, can provide a framework for understanding the essential elements of standards for legal assistance. The agenda indicates the topics that TCSG typically covers in this discussion.

In states where resources permit, this phase could be done in advance by an advisory group, which would examine the OAA, particularly Title III B and Title VII, to determine what the Act calls for in the area of legal assistance, and prepare an overview for the Task Force to receive and review in advance of the standards development session.

2. Identifying Goals and Issues Standards Need to Address in Preparation for Outlining the Standards

One of the **most crucial** pieces of the standards development process is an initial discussion and consensus on **goals**. Once established, these goals should drive everything that follows. Two types of goals need to be established. First, the overall goal or mission of the state's legal assistance system must be established, and then the goal for the standards themselves, *i.e.* what does the state want and need the standards to accomplish?

- a) The first part of this discussion should be initiated by asking the Task Force members to think and talk about the **goals or mission of legal assistance for older persons**. What is it that legal providers, AAAs, and the state office want to achieve for older persons through legal assistance. Such an identification of goals is easier said than done, and requires a strong and persistent facilitator. It is not easy for most people to step back from day-to-day issues of agency and program operation and think about overriding goals and the ultimate impact they want their services to have on the lives and well-being of older persons. The discussion should elicit such goals as --
 - to protect the autonomy and independence of vulnerable elders,
 - to ensure that older persons receive essential benefits to which they are entitled,
 - to target legal assistance effectively so that those older persons who are the most economically and socially

vulnerable and who are least able to advocate on their own behalf benefit most from limited legal resources.

It should generate a list of what are, in essence, mission statements for the legal assistance system. These goals or mission statements should then be the litmus test against which all elements of the standards should be measured throughout the development process.

- b) This discussion should be followed by asking the group to consider what their **goals are for statewide standards**. This discussion should result in a list of broad issues/problems, as well as some fairly specific issues/problems that exist in the state's system and that need to be addressed and clarified, such as --
- misunderstandings about confidentiality
 - insufficient targeting, prioritizing, etc.

Some of the goals for the standards should also be linked to the goals for legal services, for example, if a goal for legal services is "to protect the autonomy of older persons," a goal for standards might be "to define the appropriate role of legal providers in guardianship," which legally takes away an older person's right to autonomous decision-making.

- c) It is recommended that the group also discuss at this point what form they feel the standards should take in their state -- *i.e.*, should they be guidelines, policy, rules that will be formally adopted and must be followed to the letter? What they are called, *e.g.* "standards" or "guidelines," may be determined by the nomenclature of the particular state, but should also be linked to the form in which they are issued.
- d) The Task Force should discuss whether the standards should be minimum standards of acceptable practice, or reflect an ideal that people will strive for. In either case, the standards should be viewed and developed as a vehicle for providing positive motivation and re-enforcement to those working in the system, rather than as a hammer to hold over their heads.
- e) This early discussion should also consider to whom the standards should apply -- providers only or providers, AAAs and the state office. All states with which TCSG has worked thus far have decided that there should be standards to define roles and responsibilities at *all three* levels.
- f) Finally, in this early part of the discussion, it is important for the facilitator or state director or developer to establish clearly the parameters of the Task Force's authority and responsibility. It should be clarified that its role is very significant and that its

recommendations will, in large part, determine the content of the statewide standards. The Older Americans Act, however, places ultimate responsibility for the standards on the state office on aging. Thus, there may be some issues, *e.g.* where the Task Force does not reach consensus, where the state will make the final decision.

All of this discussion will be influenced by the different perspectives that the Task Force members bring with them, and should therefore reflect the concerns of state office staff, AAAs and providers. This exchange can help to educate Task Force members to the value of statewide standards, because it will lead them to recognize that standards can help both to move everyone in the state's legal advocacy system toward their common goals, and to fix existing -- and often long-standing -- problems in the state's system.

The lists of goals for legal assistance and for standards should be recorded on flip charts and kept at hand during the rest of the work sessions. Throughout the subsequent discussion and development of the standards, it will be essential to **keep going back to these goals**. They can provide important direction as the group attempts to devise specific standards, for example, if a goal is "to protect autonomy," this must inform the decision as to the appropriate role of legal providers in guardianship -- they should be defending older persons against guardianship which would remove their autonomy.

The more experience TCSG has working with the states, the more convinced we are of the crucial importance of this goal-setting portion of the work session. Very often the Task Force participants want to get quickly to the content of the standards, and a strong facilitator is needed to assure that adequate time and attention is given to examining goals and identifying the real mission of the state's legal advocacy system.

3. *Outlining the Standards*

The next step is to organize the goals for standards and the specific issues identified in the discussion described above in 2.b), into an outline that then forms the framework for the actual standards. Typically, the goals for standards become major headings for the outline and the specific issues fall under those major headings.

TCSG staff has been surprised to find that in all the states where we've worked and used this approach, the issues generated in the discussion of goals have tended to be similar and they have tended to fit into an outline similar to that which is in the Supplemental Materials. (P. S-14) Obviously, the outline of standards can vary considerably from state to state, depending on what the Task Force decides is the appropriate way to organize and address the issues of

importance in their state. Also, even where the outline is similar, the content within the major sections of the outline will differ from state to state.

4. Development of General Content of Standards

Once an outline is devised, the rest of the Task Force work session will focus on discussing and trying to **reach a consensus about what the standards should say concerning each of the issue areas**. The goal of this discussion is not to decide on precise wording -- this should not be done by committee -- but to reach general agreement about what the content of specific standards needs to be. (For example, one issue may be defining appropriate staffing for Title III B legal programs. The discussion would attempt to reach consensus on what is adequate staff -- must every program have an attorney identifiable as the attorney for aging; if a paralegal is sufficient, what should the requirement be for direct supervision by an attorney; what do the Older Americans Act and regulations require, etc.)

Discussion of some issues will take a lot of time, and inevitably, there will be **some issues on which the group cannot reach consensus**. When this occurs, it may be best to leave that issue, and go on with discussing other things. The most troublesome issues can perhaps be resolved later in the process, or perhaps not at all. Then the group will need to decide if the standards should be silent on that issue, or perhaps the State Office will need to be the decisionmaker about what the standards say on the issue.

One or preferably two people should be assigned in advance the job of **taking detailed notes on the discussion**. If it is possible to use lap-top computers for note taking, this is especially good, because it can produce an immediate write up of the discussions and agreements reached, that people can review and react to on the second and third day of the Task Force work. These notes will form the basis of the standards that will be drafted after the Task Force has completed this task.

As discussed above, it is helpful throughout this phase to **review regularly the goals for legal assistance and for standards** that were articulated at the outset, to ensure that the standards are directed toward achieving these goals.

C. Drafting the Standards

The actual drafting of the standards is best done, in our experience, after the task force has completed the above work. It can be done by the Legal Services Developer, working alone, using the notes and flip charts from the Task Force meeting, or with the help of a small team of task force members.

The outline developed in the working session forms the basis of the standards, and the individual topics in the outline can each be expanded to capture the sense of what the Task Force decided the standards should say. Again, it is helpful for the drafter(s) to **return to the list of goals developed initially by the task force** as a guide for how the standards should be elaborated. Keeping the goals in the forefront throughout the process **maximizes the likelihood that the standards will really accomplish their purposes.**

It is best to **set a definite deadline for finishing the initial drafting** process, to make sure that the task keeps moving forward. Set a reasonable deadline by which the standards will be circulated to the Task Force for their review and comment, and then try hard to stick to that deadline.

D. Circulation and Redrafting of Standards

1. The first draft of the standards should be **circulated initially to the task force** for their reactions and suggestions, and to be sure that they feel the draft captures the sense of what the work group agreed upon. Task force members should submit written comments concerning the things they feel should be revised in the draft. It is best to have a definite deadline for submitting comments, perhaps one month, or less.
2. The **first draft should then be revised** by the Developer and assistants **based on the input from the task force.** If there are conflicting responses/suggestions from task force members, these need to be resolved as much as possible. The Developer might begin by contacting the members who disagree with each other by phone, and setting up a conference call to discuss the different views. If this does not successfully resolve the differences, it may be necessary to call the entire task force together, either in person or by phone, to get the sense of the whole group on the disputed issue.
3. The resulting **second draft should then be circulated to a wider segment of the law and aging network** for more input and feedback. In most cases this involves sending it to directors of all Area Agencies, and to the offices of all Title III-B providers. This draft should be accompanied by an explanation of the process that was used to develop the standards, so people are aware that the standards are the product of a collaborative effort which included state, area agency and provider personnel. Again, a deadline for making comments should be set.
4. The drafters of the standards should then **take account of this feedback.** Especially at this stage, however, not every suggestion made by reviewers can be incorporated into the standards. The drafters will need to be sensitive to those issues that seem most important, and most in keeping with the intentions of the task force. If

a significant issue is raised at this stage of the review that was not dealt with by the task force at all, it might be necessary to consult with task force members to decide how to handle this new issue.

It is good policy for the drafter(s) to try to respond as fully as possible to the comments made at this stage, even if the standards will not be changed in response to them. Discussing with commenters the reasons that the standards were drafted in a particular way can help promote understanding of the standards, and will ultimately enhance their acceptability.

5. After this final revision, the standards should be **circulated to the entire law and aging network**, again with a very full explanation of the purposes of the standards, the process that was used to create them, and the way that they will be used to enhance the availability of high quality legal assistance to older persons. (The final "Standards for the Provision of Legal Assistance to Older Persons in Georgia" are included as an example in the Supplemental Materials --P. S-15, ff.)

E. Formal Adoption of Final Standards

States have differed in how they choose to incorporate the standards into their operating procedures. Most states have issued them as **policy of the State Unit on Aging**, but this may not be appropriate in every state. Each state needs to make a decision about how formal, and how "enforceable" they want their standards to be, and what approach will best enable the standards to accomplish their goals.

F. Training Session on Final Standards

A key element in promoting the successful and effective implementation of the standards is **training** the entire law and aging network concerning **the value and the goals of standards, and the ways to make them effective**. This training should take place after the standards have been distributed to the network, and after they have had some time to "digest" them, but not too long after their dissemination. The training should include, to the extent possible, all members of the network, particularly state office personnel involved in overseeing legal assistance activities, area agency personnel and legal providers. The members of the Task Force should be involved in the training, to provide a first hand account of the process used to develop standards, the rationales for the approaches taken, the wording used, etc. The presence of the Task Force will itself impart a sense of legitimacy to the process. (P. S-35 contains a description of several different approaches that could be used to train the network on using the standards.)

VI. CONCLUSION

The members of the NALSD Executive Committee and the staff of TCSG hope these materials will be helpful to all states which are developing statewide

standards for legal assistance. Admittedly, the process described requires a serious and significant commitment from the State Unit on Aging, and from the law and aging network in the state. A great deal of careful thinking and planning, and a sincere effort to achieve effective communication are necessary if the process is to result in practicable standards that will truly enhance the quality, accessibility, and impact of legal assistance for older persons in the state. But those states which have used this process have found that the results are well worth the effort.

The process gives the persons in the state who are responsible for making effective legal assistance available to the elder population the chance to work together to define how that can best be accomplished. This process builds a commitment to the approach they define in the standards, which makes it much more likely that the standards will in fact be implemented willingly and with enthusiasm.

We feel that these guidelines will help make the standards development process easier and more effective. Users are encouraged to consult with the Legal Services Developers from other states that have already made use of the process described. You may contact The Center for Social Gerontology at (313) 665-1126 to get the names of states that have used this approach to developing statewide standards, or to ask any questions you may have about the standards development process.

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PART II

SUPPLEMENTAL MATERIALS TO ACCOMPANY GUIDELINES FOR DEVELOPING STATEWIDE STANDARDS

PART II
SUPPLEMENTAL MATERIALS TO ACCOMPLISH
GUIDELINES FOR DEVELOPING STATEWIDE STANDARDS

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Statewide Standards for Legal Assistance Under Title VII of the Older Americans Act Amendments of 1992

I. Purposes of Statewide Standards for Title III Legal Assistance

There are a number of important and different reasons for pursuing statewide standards. Broadly stated, these goals might include:

- To meet requirements of the new Title VII of the Older Americans Act which calls for State agencies to: *Develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals.*
- To create a common understanding of the meaning and importance of legal assistance that goes beyond what is in the Older Americans Act [42 USC §§3022(4), 3027(a)(15)] and its implementing regulations [45 CFR §1321.71], and that tries to capture the notion of a high impact, targeted legal program. For example, the following purpose statement -- which builds on the definition in Washington's standards -- has been adopted in New Jersey:

Legal assistance services provide access to the system of justice by offering advocacy, advice, and representation, to persons age 60 and older experiencing legal problems, particularly those who are socially or economically needy.

Programs are to:

- *formally establish priority issues that reflect local needs of the target population(s) and include those issues specified in Section V of these standards;*
 - *foster cost-effective, high-quality services, having maximum impact on these priority issues, and which are integrated into the Aging Services Network;*
 - *be accessible throughout each planning and service area; and*
 - *develop and maximize the use of other resources to expand the provision of legal assistance to older persons.*
- To improve the ability of AAAs to request proposals from, and contract with, legal providers for full-service, targeted legal programs, as opposed to having the AAA simply contract with an attorney or paralegal for a set number of hours, which may be used primarily to provide advice rather than representation, or to prepare wills rather than handling matters of higher priority for vulnerable elders.
 - To assist state and area agencies and legal providers in viewing legal assistance as an integral part of the AAAs' and state agencies' larger role in protecting and enhancing elder rights and the autonomy of older persons.
 - To establish minimum standards of service which may be utilized by the state agency, AAAs, and legal providers to develop quality assurance systems of operation, monitoring procedures, and reporting systems which reflect the services being delivered and the impact of those services on the lives and well-being of older persons.

More specific purposes or objectives for standards might include:

A. Policy-related Objectives

1. To provide a symbol of state's commitment to legal assistance, and help the state office to develop, coordinate, and monitor legal assistance programs statewide

2. To address inadequacies, and define essential elements of legal assistance programs in the state with greater specificity than the Older Americans Act, and insure compliance with the Act and Regulations
3. To decrease disparity in quality and type and level of service from area to area within the state
4. To establish clear state policy with respect to specific aspects of legal assistance (*e.g.*, priority areas of law, special target populations, relationship to ombudsman program, appropriate role of legal providers in guardianship and protective services)
5. To improve the quality of legal programs

B. Objectives Related to the RFP/Proposal/Contracting Process

1. To provide guidance to AAAs in developing requests for proposals, and objective criteria for selecting the best-qualified provider as required under the Older Americans Act [42 USC §3027(a)(15)] and Regulations [45 CFR §1321.71(c)]
2. To provide guidance to potential providers in writing proposals
3. To provide guidance for standardizing contracts which clearly state responsibilities of both the AAA and the legal provider

C. Objectives Related to Program Operation, Monitoring, and Reporting

1. To help providers plan and operate high quality programs
2. To foster a degree of uniformity in the scope of legal services available from various providers
3. To provide uniform criteria against which AAAs can monitor and assess programs
4. To provide the basis for a uniform reporting system

II. **Critical Importance of the Process Used to Develop Standards So They Have Meaningful Impact on Quality and Accessibility of Legal Assistance and Do Not Simply Meet With Resistance**

- A. Needs To Be a **Cooperative** Effort Involving All Groups Expected to Administer, or be Governed by, the Standards -- State Office, AAAs, Legal Providers, etc.
- B. Needs To Bring Together Diverse Members of the Aging and Legal Networks, *i.e.* Persons with Differing Experiences and Knowledge of Various Target Populations
- C. Must Begin by Defining Goal(s)/Purpose(s) of Standards for the Particular State.
- D. Should Lead to Standards Specific Enough to be Meaningful, but Flexible Enough to Accommodate Differences in Populations and Needs
- E. How States That Have Developed Standards by Using this Process (HI, GA, KS, MD, ME, MN, NE, NJ, NY, OR, SC, TN, WA, WI) Have Proceeded
 1. Getting a "buy in" and support from providers and AAAs
 2. Establishing a representative Task Force

3. Bringing in a neutral outsider to assist in working with the Task Force and in developing the standards
4. Having a "review and comment" procedure in which serious consideration is given to comments and concerns expressed

III. Linking Standards to the Level of Funding

Standards must at least reflect the requirements enumerated in the Older Americans Act and regulations, and funding levels must be adequate to support programs that comply with such standards. More stringent standards may necessitate consideration of a higher level of funding. (A Legal Services Corporation study indicates that the minimum cost of meeting the legal needs of the poor is \$14.56 per poor person.)

IV. Major Elements of Standards: Targeting, Elder Rights, and Quality Assurance

A. Targeting

1. A major reason for standards is to address the problem of services being provided on a first-come, first-served basis, and instead to foster the targeting of services to the most vulnerable elders. Targeting is a commitment to serving those most in need, and is a key requirement of the Older Americans Act. It means first determining which needy elders the legal program should target, and then developing and implementing an outreach/marketing plan to reach and serve those groups. In the context of the Older Americans Act, this means identifying minorities, low-income persons, and socially needy persons. Targeting does not mean neglecting traditional public benefits, and other cases. But, it does mean focusing some resources on the most vulnerable, particularly in conjunction with other Aging Network agencies.
2. Among the most vulnerable elders who should be considered in setting targeting standards are: Nursing home and boarding home residents; Elder abuse/protective service clients; Mentally ill or retarded elders in institutions; Deinstitutionalized elders; Homeless elders; Elders at risk of, or proposed for, guardianship (or those inappropriately under guardianship); Minority elders; Illiterate elders.
3. Emphasizing priority issue areas of law is related to targeting and should be considered as a part of standards. Priority setting simply means identifying the types of cases the legal project will handle and not handle. As part of the 1992 Reauthorization, the Older Americans Act has been amended to include priority issue areas for legal assistance funded under the Act. State Plans must now contain assurances that AAA's will give priority to legal assistance related to income, health care, long term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination. (Section 307(a)(15)(E))
4. Outreach is key to implementing targeting goals, and therefore also needs to be addressed in standards. Without focused outreach, meaningful targeting will not be achieved. "First-come, first-served" is the result of unfocused outreach. Whether a legal project is inundated with clients or cannot spend all of its funds, outreach is needed. Almost by definition, the most vulnerable elders are the most difficult to reach and serve; and focused outreach is crucial to reaching them.
5. Outreach should be viewed as "marketing legal services" to targeted elders. An outreach plan, therefore, assesses where the targeted groups are generally located, analyzes how best to inform them of the legal service available and how it can help them, and, most importantly, analyses and develops techniques which are most likely to encourage them to seek legal assistance. The outreach plan should also carefully assess where most clients and referrals come from. If most referrals are likely to come from secondary

sources, then outreach efforts should be directed toward these people, such as: Social workers and case workers; Hospital social workers and discharge planners; Clergy; Visiting nurses, home health agency staff; Bank tellers and managers; Police; Protective services workers.

6. Outreach to minority groups, including Blacks, Hispanics and Native Americans, is essential if these individuals are to be adequately served. Special efforts need to be made, including the use of minority elders as full or part-time paralegals, contacts with clergy, and special outreach to service providers in minority neighborhoods. Outreach to rural elders requires many of the same special techniques as reaching minority elders, again with special focus on secondary source contacts.

B. Elder Rights

1. In light of recent trends in Congress and the Administration on Aging, most specifically Title VII of the Older Americans Act Amendments of 1992, standards should establish the importance of a broad "Elder Rights Agenda," and a process for establishing such an Agenda which integrates legal assistance into planned and goal-directed advocacy initiatives by state and area agencies and others in the aging network
2. Targeting and priority setting are essential pieces of setting an elder rights agenda. They should be part of a planning process which involves the Area Agency on Aging, other public and private legal providers, other Aging Network agencies, elder advocates, Area Agency board members, and the Legal Services Developer. The process should be directed toward assuring that the Area Agency's advocacy plan and the Title III legal program complement and involve each other. The Title III legal program should be an integral part of the Area Agency's advocacy efforts, not an unrelated service that "has to be provided because the Older Americans Act requires it."

C. Quality Assurance -- At the State, AAA, and Legal Provider Levels

Any statewide standards should, at a minimum:

1. Define what constitutes Legal Assistance (*e.g.*, "advice and representation," requirement of judicial as well as administrative representation, policy or prohibition *re* representing petitioner in guardianship cases, etc.); and delineate acceptable delivery models in the state.
2. Establish responsibilities of state agency (*e.g.*, coordinating programs; providing technical assistance; conducting training events)
3. Establish responsibilities of AAAs (*e.g.*, minimum percentage funding; monitoring and evaluating; reporting to state agency; prohibition against interfering in attorney-client relationship)
4. Define responsibilities (of state, AAAs, and providers) to develop additional legal assistance resources

V. **Issues/Topics for Which Specific Standards Might Be Set**

- A. Representation of views of the aging network and older persons on governing boards of legal programs
- B. Staffing, credentials, and staff training requirements for various delivery models, including use of paralegal and nonlawyer advocates
- C. Resources that legal providers must have (*e.g.*, basic legal research materials, access to law library)

- D. Case intake, rejection and case-handling procedures; location of intake sites
- E. Requirements *re* Capacity to serve homebound, institutionalized, isolated; bilingual requirements
- F. Policies on contributions; conflicts of interest; confidentiality
- G. Procedures for assessing client satisfaction and handling client grievances
- H. Miscellaneous provisions on program operation (*e.g.*, requirements for malpractice insurance; handling of funds; handicapped accessible offices/intake sites)
- I. Policies for coordination with ombudsman program
- J. Activities required to obtain private bar involvement
- K. Reporting requirements
- L. Procedures for monitoring

VI. Resources/References

- A. *Comprehensive Guide to Delivery of Legal Assistance to Older Persons*, (1988) The Center for Social Gerontology, Ann Arbor, Michigan.
- B. *Guidelines for Planning and Evaluation of Legal Assistance Programs Funded under the Older Americans Act* (1989), The Center for Social Gerontology, Ann Arbor, MI
- C. "Targeting Older Americans Act Funds," *Aging Magazine*, No. 360, 1990, by Alfred Chiplin of the National Senior Citizens Law Center, Washington, DC.

New Jersey Task Force on Statewide Standards for
Legal Assistance - January 3, 1991

WHY STANDARDS

(Developed by Task Force on Thursday, Jan. 3, 1991)

1. Afford Universal Access to Service Throughout State
2. Assure that Limited Resources are Targeted to Those in Greatest Need
3. Deal with Specific Questions
- Relationship Between Legal and Protective Services
4. Clarify RFP/Proposal/Contracting Process
5. Define Legal Assistance
6. Define what Counts as Title IIIB Legal Assistance (uniform reporting)
7. Provide for Coordination and Collaboration
8. Define Role of State, AAAs and Providers
9. Assure Quality of Legal Assistance Provided
10. Maximize Ability to Serve Clients vs. Reporting, Monitoring, Etc.
11. Coordinate to Maximize use of Non-Title III Legal and Non-Legal Resources
12. Assure Compliance with OAA and Regs.

October 1, 1994

Jane Brown, Contract Specialist
Mid-State Area Agency on Aging
2450 Jones Dr., NE
P.O. Box 1218
Middletown, ST 00000

Re: Task Force to Develop Statewide Standards
for Legal Assistance, Dec. 12-14, 1994

Dear Ms. Brown:

On behalf of the State Unit and Aging, I would like to invite you to participate on a very important Task Force -- one that will have responsibility for developing statewide standards for the delivery of legal assistance in our State. Since developing standards will be a very challenging and substantial task, we need to ask you commit three full days to it. We will **meet Monday through Wednesday, December 12 through 14**, at the office of the Northern Area Agency on Aging in Northville. It is possible we will need to meet one additional day at a later date.

While this will indeed be challenging, the resulting standards will provide Area Agencies, legal providers and the State Unit with guidance on the essential elements and responsibilities involved in planning and operating high quality, high impact legal programs. Standards will afford a more uniform set of expectations about how programs should be designed, operated and funded, and a more coherent view of the goals of our State's legal assistance system. A number of other states have developed standards over the past few years, and have found them to be very beneficial. Now, Title VII of the Older Americans Act requires all states to develop them.

We will be assisted in our standards development effort by John Smith, the Legal Assistance Developer from a state which has already developed statewide standards for legal assistance. He will act as facilitator at our work sessions in December.

Please let me know whether you will be able to participate on the task force by filling out and returning the enclosed form in the envelope provided. Further details and preparatory materials will be sent prior to the meeting in December. I hope you will be able to work with us on this important effort. If you have questions, please feel free to call me.

Sincerely yours,

Joan Green
Legal Services Developer

RESPONSE FORM

**TASK FORCE TO DEVELOP STATEWIDE STANDARDS FOR
LEGAL ASSISTANCE**

DECEMBER 12-14, 1994 -- NORTHVILLE, ST

Please complete and return this form to the State Unit on Aging by **October 31, 1994** in the enclosed self-addressed, stamped envelope.

Name: _____

Title: _____

Organization: _____

Street Address _____

City/State/Zip _____

Phone () _____ Fax () _____

_____ I will be able to participate in the full three-day Task Force meeting on
December 12 through 14, 1994 in Northville.

_____ I will not be able to participate.

Thank You.

MEMORANDUM

TO: Helen Johnston, Chair, Minnesota Board on Aging
Jerry Bloedow, Executive Secretary, Minnesota Board on Aging
Jim Varpness, Supervisor, Advocacy and Protection Services,
Minnesota Board on Aging
Karin Sandstrom, Supervisor, Planning and Program
Development, Minnesota Board on Aging
Jim Knobel, Director, Financial Management, Minnesota Board on
Aging
Ted Gredvig, Community Programs Coordinator, Minnesota Board
on Aging
Cynthia MacDonald, Elder Rights Coordinator, Minnesota Board
on Aging
Marjorie Jamieson, Member, Minnesota Board on Aging
Madelyn Reiter, Member, Minnesota Board on Aging
Leslie Skoog, Member, Minnesota Board on Aging
Andrea Skolkin, Director, Region 11 AAA, St. Paul
Alan Goldberg, Director, Region 2/Headwaters AAA, St. Paul
Lorraine Patton, Director, Region 5 AAA, Willmar
Steve Wolfe, Supervising Attorney, Southern Minnesota Regional
Legal Services, St. Paul
Mary Deutsch Schneider, Executive Director, Legal Services of
Northwest Minnesota, Moorhead
Ray Beckel, Supervising Attorney, Southern Minnesota Regional
Legal Services, Mankato
Mary Beth Onkka, Manager, Minnesota Legal Services Coalition
Margaret Schild, Director, Winona Senior Center, Winona

FROM: Penny Hommel and Jim Bergman

DATE: April 19, 1993

RE: Participation in Task Force on Statewide Standards for Legal
Assistance to Elder Minnesotans and Preliminary Agenda

Thanks very much to all of you for agreeing to participate in the Task Force on Statewide Standards for Legal Assistance to Elder Minnesotans. We look forward to working with you in St. Paul on April 23rd, and for two later days which we will select when we are with you on the 23rd.

As you may know from Cynthia MacDonald, The Center for Social Gerontology is able to work with individual states in developing their legal assistance delivery systems and their elder rights agendas under a grant from the Administration on Aging. Working on standards has been one of the most exciting aspects of this enterprise; and states developing standards now are clearly in the forefront of what the 1992 Amendments to the Older Americans Act made as a requirement for all states.

Enclosed are several items that you will want to prepare for the first day of the Task Force meetings. These include:

- A five-page discussion sheet on issues and considerations in developing statewide standards;
- A preliminary agenda for the three days of Task Force Meetings; and
- A bit of background information on Jim Bergman and me.

We will meet Friday, April 23rd from 9:00 am to 4:00 pm at:

Minnesota Department of Human Services Building, Room 4B
444 Lafayette Road
St. Paul, Minnesota

(Free parking is available in the visitor lot on the East side of the building -- be sure to sign in at the Guard Desk)

If you have any questions or suggestions, please call Cynthia MacDonald at (612) 296-8992 or Penny Hommel at (313) 665-1126.

Development of Statewide Standards for Nebraska's Title IIIB Legal Assistance System

December 7 & 8, 1992

Downtown Senior Center
1005 "O" Street, Upstairs Meeting Room
Lincoln, Nebraska

Sponsored by: Nebraska Department on Aging
The Center for Social Gerontology, Ann Arbor, Michigan

Working Agenda

Monday, December 7, 1992

- 9:00 am Welcome to Task Force Members
- 9:15 Overview of the Process/Plan for the Task Force Work Days and Possible Need for Third Work Day
- Overview of Process/Plan for Drafting, Reviewing, Commenting on, Finalizing, and Conducting Training on the Standards
- 9:30 Requirements for Legal Assistance Under the Older Americans Act and Regulations, Including New Title VII -- Essential Elements of Standards:
1. Evolution of Legal as a Priority Service in the Act;
 2. Minimum Percentage Funding and Waiver Requirements for AAAs;
 3. Increased Targeting Requirements to Serve Those in Greatest Social and Economic Need;
 4. Prohibition Against Means Testing;
 5. Definition -- What is Legal Assistance Under the Act? Advice and Representation by an Attorney . . . ;
 6. What is the Best Entity" for Providing Legal Assistance?
 7. Requirements Not to Violate Attorney/Client Confidentiality;
 8. Requirements Regarding Fee-Generating Cases, and Regarding Involvement with Other Advocacy Programs;
 9. New Title VII Elder Rights Requirements for States Include:
Develop an Elder Rights Plan as Part of State Plan,
Develop Statewide Standards,
Provide a Legal Assistance Developer and Other Personnel sufficient to ensure that legal rights are secured and maintained, that provision of legal assistance is coordinated, that there is TA, training and other support to AAAs legal providers, ombudsmen and others, and that financial management services are promoted,

Provide TA to AAAs and legal providers to enhance and monitor quality and quantity of legal assistance,
Ensure coordination with Legal Services Corporation as well as other State or Federal programs that address legal assistance needs of older persons,
Provide for periodic assessment of elder rights, including the analysis of unmet need for legal assistance

10:15 BREAK

10:30 Why Are Standards Needed, i.e. What Are the Goals/Purposes/ Uses of Statewide Standards in Nebraska? (See attached list of "Why Standards" developed by the New Jersey Standards Task Force.)

- For the Area Agencies on Aging
- For the Providers of Legal Assistance
- For the Nebraska Department on Aging

How General or Specific Should NB Standards Be?

Special Issues in Standards Development in Nebraska:

- Representation and Outreach
- Paralegal/Non-Lawyer Supervision
- Ethical Considerations
- Priorities

12:00 noon LUNCH

1:00 pm Development of an Outline of Standards for Nebraska

2:00 Discussion and Development of General Content of Standards to Address Specific Issue Areas in the Outline

3:00 BREAK

3:15 Discussion and Development (Continued)

5:00 ADJOURNMENT FOR THE DAY

Tuesday, December 8, 1992

9:00 Brief Review of Outline and General Content of Standards Developed Monday

9:30 Discussion and Development of General Content of Standards to Address Specific Issue Areas in the Outline (continued)

10:15 BREAK

10:30 Discussion and Development (Continued)

12:00 noon LUNCH

1:00 pm Discussion and Development (Continued)

3:00 BREAK

3:15 Discussion and Development (Continued)

4:30 Discussion of Next Steps

- Timetable for Drafting, Circulating, and Receiving Comments on the Draft Standards
- Process/Plan for Ensuring Implementation
- Training on the Standards, Their Meaning and Implications

5:00 ADJOURNMENT

THANK YOU!

Outline of Standards

- I. Legal Authority
- II. Program Purpose
- III. Elder Rights Plans
- IV. Standards for Targeting Scarce Resources--Target Populations
- V. Standards for Establishing Priority Issue Areas
- VI. Techniques for Reaching Targeted Groups and Addressing Priority Issues
- VII. Roles and Responsibilities of Legal Assistance Providers
 - A. Staffing requirements
 - B. General provider requirements
 - C. Coordination requirements
 - D. Ethical standards for providers
- VIII. Roles and Responsibilities of Area Agencies on Aging
 - A. General Area Agency Requirements--e.g., provide leadership for legal providers on all aging issues, including planning, advocacy, coordination of services, etc.
 - B. Specific Area Agency Requirements--e.g., confer with legal providers on development of annual AAA Elder Rights Plan; select legal provider best able to meet requirements of federal and state law and the standards; etc.
 - C. Coordination, Training and Support Responsibilities
- IX. Roles and Responsibilities of State Office on Aging
 - A. General Requirements--e.g., develop annual Elder Rights Plan, and meet other requirements of Title VII
 - B. State Training Responsibilities--e.g., assure that training is available to providers in areas of law relevant to the priority areas
 - C. Other Responsibilities--e.g., work with area agencies to develop model Request for Proposals for provision of legal assistance



OFFICE OF AGING PROCEDURAL ISSUANCE (OLDER AMERICANS ACT) NO. 89

TO: Executive Directors, Regional Development Centers
Chairman, Board of Directors, Heart of Georgia Council
on Aging
Executive Director, South Georgia Council on Aging
Executive Director, SOWEGA Council on Aging

FROM: Judith E. Hagebak, Director
Office of Aging

DATE: February 18, 1993

SUBJECT: Standards for the Provision of Legal Assistance to Older
Persons in Georgia

EFFECTIVE DATE: July 1, 1993

APPLICABILITY: Office of Aging, Area Agencies on Aging, Legal Assistance
Providers

Attached is a final copy of the Standards for the Provision of Legal Assistance to Older Persons in Georgia.

The Older Americans Act of 1965 was reauthorized by Congress in 1992. The Older Americans Act Amendments of 1992 contain a requirement that all states "develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals" [Section 731 (b) (3) (A)]. The attached Standards were developed by a Task Force comprised of Area Agency Directors, Legal Assistance Providers, Office of Aging staff, staff from the Office of General Counsel of the State Bar of Georgia, and the Executive Directors of both the Georgia Legal Services Program and the Atlanta Legal Aid Society. The Task Force also had the benefit of two consultants from The Center for Social Gerontology in Ann Arbor, Michigan who have worked with a number of other states on these issues.

The standards cover issues identified as important by Area Agencies and providers in meetings held in June of 1989. They have undergone an extensive review and comment period and all comments have been addressed either by incorporation into the Standards or by discussion and clarification. It is important to emphasize that the implementation of these Standards will not only help to insure our compliance with the Older Americans Act, but will help to improve and focus the delivery of legal assistance in Georgia.

Attachment

cc: Directors, Area Agencies on Aging
Legal Assistance Providers

III. PROGRAM PURPOSE (Continued)

- * providing access to the system of justice by offering advocacy, advice and representation to persons 60 and older;

Programs are to:

- * serve particularly those who are the most socially or economically needy;
- * formally establish and address priority issues that reflect local needs of the target population and include those issues specified in Section VI of these standards;
- * foster cost-effective, high quality services, having maximum impact on these priority issues, and which are integrated in the Aging Services Network;
- * be accessible throughout each planning and service area;
- * develop and maximize the use of other resources to expand the provision of legal assistance to older people, including alternative dispute resolution where appropriate.

The Georgia Office on Aging taxonomy contains the definitions of legal service (hours), Legal and Advice and Representation (cases), Legal Community Education, and Legal Information and Referral.

IV. ANNUAL ELDER RIGHTS PLANS

The overriding goals of the OAA are the protection and enhancement of the rights, dignity, autonomy and financial security of older Americans. The Older Americans Act Regulations state that the State Agency on Aging shall proactively assert leadership on all issues affecting older people in the state, and the Area Agencies on Aging shall assert the same advocacy leadership in their respective areas. To assist in achieving these goals, the Older Americans Act specifically requires the funding of legal assistance services. In order to assure that the State and area agencies and the legal assistance providers are most effectively planning and implementing coordinated efforts to protect and enhance the rights of older Georgia residents, the State and Area Agencies shall annually develop a written Elder Rights Plan as part of their State and Area Plans.

IV. ANNUAL ELDER RIGHTS PLANS (Continued)

The annual Elder Rights Plans developed by the State and Area Agencies shall set forth the specific goals and agendas which will protect and enhance the rights, dignity, autonomy and financial security of elders. These shall constitute the annual advocacy/leadership plans with respect to elder rights for the State and Area Agencies, and as such, shall be consistent with and developed in the context of the overall state and Area Plan development process. The State Elder Rights Plan shall reflect and embody the issues set forth in the Area Agency Elder Rights Plans which have statewide significance.

A primary objective of this process on both the State and Area levels is the enhancement and growth of a strong elder rights movement. The goal of this movement is to link intimately legal service providers, long term care ombudsmen and other members of the aging network in Georgia in the pursuit of legislative, judicial and administrative reforms which promote the dignity, rights, autonomy and financial security of elders.

V. THE TARGET POPULATIONS

Recognizing that the resources of the OAA are inadequate to meet all elders' legal needs, legal assistance services must be targeted to particularly needy populations of elders. The Older Americans Act specifies particularly needy persons, including those in greatest social or economic need, low-income minorities, and rural elders.

Greatest economic need is defined in the OAA as the need resulting from living at or below the level of poverty. Greatest social need is defined by the OAA as the need caused by non-economic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.

The Area Agencies and legal assistance providers shall, in consultation with the State Agency, jointly develop plans to target legal assistance services to the particularly needy persons described above. Within these groups, the Area Agencies and legal assistance providers shall jointly identify those sub-groups of elders who are most vulnerable and in need of legal assistance. In developing plans for targeting, consideration should be given to ways the legal assistance program can assist such groups. That is, the desired outcome of legal assistance targeting should be considered.

V. THE TARGET POPULATIONS (Continued)

Groups that should be considered to receive priority for legal assistance services include:

- * Long term care facility residents;
- * Personal care home residents;
- * Elders with chronic health problems;
- * Elders with particular problems of access to health care;
- * Homeless elders;
- * Institutionalized mentally ill or mentally retarded elders;
- * De-institutionalized mentally ill or mentally retarded elders;
- * Elders with language barriers;
- * Elders proposed for or under guardianship;
- * Victims of Elder abuse, neglect or exploitation (including fraudulent and deceptive financial and consumer practices);
- * Physically isolated elders.

Consideration should be given on the local level to the existence and availability of other resources to meet the legal needs of targeted populations. This target listing is not exhaustive, mandatory, or in priority order but represents a range of possibilities.

VI. PRIORITY ISSUE AREAS

In addition to identifying targeted population groups and subgroups, the Area Agencies and providers shall assure that the following broad categories of legal assistance are available as specified by the Older Americans Act Reauthorization of 1992 throughout each Planning and Service Area:

- * Income
- * Health care
- * Long-term care
- * Nutrition
- * Housing and utilities
- * Defense of guardianship
- * Abuse, neglect and exploitation
- * Age discrimination

Within these broad categories, those issue areas marked with a plus sign (+) are viewed as most important and all Title IIIB program must be able to address substantially these issues areas, unless the provider can demonstrate to the Area Agency on Aging that another provider is delivering the service in accordance with Sections VII and VIII of the Standards.

VI. PRIORITY ISSUE AREAS (Continued)

Area Agencies shall address these issue areas in the development of their Elder Rights plans and shall require providers/applicants to address these issue areas when responding to requests for proposals.

INCOME/NUTRITION/BENEFITS

- +Social Security (Title II)
- +SSI (Title XVI)
- +Food Stamps
- +Railroad Retirement
Workers Compensation
- +Veterans Benefits
Unemployment Compensation
- +Pensions
Black Lung

HEALTH/LONG-TERM CARE

- +Medicaid/Medicaid Disc.
- +Medicare
- +Nursing Home/PCH issues
(quality of care/resident rights)
- +COBRA
Other Insurance Issues
Residential Health Care
- +QMB issues

HOUSING/UTILITIES

- +Landlord/Tenant
- +Home Foreclosure
- +Home Repair Fraud
- +Utility Shut offs/Energy Issues
Homeownership/Real Property
Home Equity Conversion

GUARDIANSHIP/ABUSE/NEGLECT

- +Defense of Guardianship
Representative Payee
- +Elder abuse cases
- +Financial exploitation
Other guardianship*

AGE DISCRIMINATION

- Employment
- Services
- Credit

PLANNING/PERSONAL AUTONOMY

- Advance Directives
- Living Wills
- Durable Powers of Attorney for Health Care
- Financial Powers of Attorney
- Wills, Estate, Probate

- * Preservation of Personal
Autonomy is favored but
guardianship may be
handled in certain situations
(see Section IX.)

VI. PRIORITY ISSUE AREAS (Continued)

OTHER CATEGORIES

+Americans with Disabilities Act
Grandparents' Rights
Divorce/annulment/separation
(in order to obtain benefits)

CONSUMER

+Collection
Contracts/Warranties
Non Health Insurance Issues
Tax
Loans/Installment Purchases

Providers should consider a client's individual circumstances, the merits of each case and the likelihood of success and may handle cases outside of this list where appropriate under the program's purposes, as stated above.

VII. MECHANISMS FOR REACHING TARGETED GROUPS AND ADDRESSING PRIORITY ISSUES

Targeting is a commitment to serving those elders most in need. Priority setting follows identification of target population groups, and is simply the identification of the types of cases/problems the legal assistance provider will and will not handle.

Outreach is the key to implementing the targeting and priority setting goals. Outreach in its broadest sense involves a variety of strategies. "First-come-first-served" is the result of unfocused outreach. Almost by definition, the most vulnerable elders are the most difficult to reach and serve. Only focused outreach will achieve the goal of reaching the most vulnerable elders.

No program, no matter how well-suited to a community, will be successful if people do not know of its existence, if it is not easily accessible, and if people do not recognize the legal nature of their problems. Therefore, the system for the delivery of legal assistance must include each of the following:

A. Accessibility

Legal assistance services, as defined in these Standards, are to be available and accessible to the target population groups identified by the Area Agency on Aging and the legal assistance provider, as specified in the Title III B grant application of the provider. These services are to be available and accessible to the target population groups throughout the specific planning and service area.

VII. MECHANISMS FOR REACHING TARGETED GROUPS AND ADDRESSING PRIORITY ISSUES (Continued)

B. Outreach

Each legal assistance provider shall include specific techniques in its grant application which will help to make potential clients aware of their services. These techniques will be tailored to the groups which have been targeted.

C. Community Legal Education

Informing elders of their legal rights in community education forums, such as in speeches, presentation, radio or television shows, is a service which is essential for legal assistance programs to provide under Title III B legal grant. Community legal education is specifically discussed in Standard 5.7 of "Standards for Providers of Civil Legal Services to the Poor" as issued by the American Bar Association and which are available from the Legal Services Developer.

Outreach goals shall be reflected in the Request for Proposal process and the Area Plan Appendix B (Section on Provision of Legal Assistance).

VIII. PROVIDER ROLES AND RESPONSIBILITIES

In keeping with the broad purposes outlined in Section III., the goal of these standards is to assure that the State Unit on Aging and the respective Area Agencies on Aging and Legal Assistance providers are working together to assure the delivery of high quality services designed to address the unmet legal needs of vulnerable older persons throughout the state of Georgia.

To that end, the legal provider shall use the full triad of legal advocacy tools which promote the zealous representation of clients required by Canon 7 of the Code of Professional Responsibility of the State Bar of Georgia. These tools include litigation, administrative and legislative advocacy, within the limits of applicable Federal and State law and Regulations.

VIII. PROVIDER ROLES AND RESPONSIBILITIES (Continued)

B. General Provider Requirements (continued)

8. *maintain services from other* use Title III B funds or other funds as contracted for from the Area Agency on Aging to maintain or increase, to the extent practicable, the level of legal assistance furnished to eligible individuals, and shall not use Title III B funds to supplant funds from other federal or non-federal sources;
9. *Questions re income & resources* as required in the Older Americans Act and regulations, and in accordance with Section V, not condition the provision of Title III B-funded legal assistance to any person 60 years of age or older on their level of income or resources. The provider may only question the client about financial circumstances as a part of the process of providing legal advice, counsel and representation, and for the purpose of identifying additional resources to which the client may be entitled, and to assist in targeting clients with greatest social and economic need;
10. give clients a voluntary opportunity to contribute to the cost of the services they receive and ensure privacy with respect to the client. Clients are to be informed of the opportunity to contribute only after services have been completed; and the method of announcing the opportunity to contribute shall not discourage the utilization of the service by the contributor or other potentially eligible individuals;
11. not subcontract any interest or obligation arising under a Title III B contract without written agreement of the Area Agency on Aging;
12. have ready access to the following for all appropriate staff: relevant USCA and CFRs, local laws and regulations, OCGA relevant state regulations and rules; manuals for relevant government programs, relevant support center manuals, newsletters, information and referral manuals, and a law library;
13. demonstrate, through the Area Plan process, the capacity to provide legal assistance in the principal language spoken by clients in areas where a significant number of clients do not speak English as their principal language;

VIII. PROVIDER ROLES AND RESPONSIBILITIES (Continued)

B. General Provider Requirements (continued)

14. provide complete, accurate programmatic and fiscal reports to the Area Agency on Aging and the Office of Aging in a timely manner and provide additional information as may be requested by the Area Agency on Aging and the State Legal Services Developer, while maintaining client confidentiality.

C. Coordination with the Long-term Care Ombudsman Program

1. Providers of Legal Assistance shall coordinate with Area Providers of Long-term Care Ombudsman Services by developing a memorandum of understanding which includes, but is not limited to, conflict of interest, case acceptance procedures, and referral procedures.
2. Providers of Legal Assistance may provide advice and representation to clients of the Long-term Care Ombudsman Program, where otherwise eligible and appropriate under program priorities.
3. Providers must maintain confidentiality in accordance with Standards 28 and 29 of Bar Rule 4-102 and the Older Americans Act and regulations, including, but not limited to, the sections on Legal Assistance and the Long-term Care Ombudsman Program.
4. Where both services are housed in the same agency, providers must develop and utilize policies and procedures to protect the integrity and confidentiality of both programs.

D. Other Coordination Requirements

1. Providers shall develop a coordination of services agreement with the local Legal Services Corporation (LSC) Program if the provider is not a LSC-funded program. The agreement shall detail the type of coordination and cooperation each program shall expect of the other while providing legal services for the elderly throughout the planning and service area. This agreement shall be updated periodically as needed;

VIII. PROVIDER ROLES AND RESPONSIBILITIES (Continued)

D. Other Coordination Requirements (continued)

2. Providers shall attempt to involve the private bar in legal assistance activities, including groups within the private bar furnishing services to older individuals on a pro bono or reduced fee basis and shall coordinate these attempts with efforts undertaken by the Area Agencies;
3. Providers shall supply clients with a mechanism for filing complaints or grievances about the operation of the program;

E. Ethical Standards for Providers

1. Providers shall supply clients with a mechanism for filing complaints or grievances about the operation of the program;
2. Provider agencies shall develop and follow a protocol and a program policy for referral of fee generating cases and submit it to the Area Agency on Aging and the Legal Services Developer for approval through Appendix B of the Area Plan on Aging.
Fee generating referrals
3. Provider agencies shall develop and submit for approval from the Area Agency on Aging and the State Legal Services Developer through the Area Plan on Aging a program policy on conflicts of interest. Such policy at a minimum, shall include provisions for identifying and resolving conflicts for employment and other activity outside the Title IIIB program, and shall extend to all persons employed part-time or providing services on a volunteer basis. The purpose of the policy shall be to protect clients from potential compromises of claims due to an inability to exercise independent professional judgment on behalf of a client as required by Standards 30, 35, 36, 37, 38, and 69 of Bar Rule 4-102.
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4. All providers should establish goals for the future of the legal assistance program in consultation with Area Agency on Aging staff, and the Legal Assistance developer.

IX. AREA AGENCY ON AGING ROLES AND RESPONSIBILITIES

A. General Area Agency Requirements

Area Agencies on Aging shall work with the Legal Assistance providers to provide leadership relative to all aging issues in their respective planning and service areas. This leadership shall extend to overall planning, advocacy, coordination of services, interagency linkages, information sharing, brokering, monitoring, evaluation and support to assure the integration of legal assistance services into the rest of the area's aging network and to assure that the focus of legal assistance services is consistent with agency identified regional goals.

B. Specific Area Agency Requirements

With respect to Legal Assistance, each Area Agency on Aging shall:

1. Seek to reach concurrence with the Legal Assistance Providers and other relevant local actors on the development of the planning and service area's annual AAA Elder Rights plan;
2. Adhere to the standards set forth in this document and any amendments thereto;
3. Assure that programs are funded in accordance with federal and state requirements and that legal assistance services are available throughout the planning and service area;
4. Select the legal assistance provider(s) that is best able to demonstrate the experience and capacity to meet the requirements of federal and state law and regulations as well as the requirements of these Standards;
5. Assure that the primary focus of the Title IIIB Legal Assistance provider is the direct representation of clients in legal matters;
6. Work with the Legal Assistance Provider to develop a method for surveying client satisfaction and needs and to assure that the views of older persons are solicited and considered in the operation of the Legal Assistance Program;
7. Assist the State Office on Aging and the Legal Assistance Providers in developing and maintaining a program appraisal instrument;

IX. AREA AGENCY ON AGING ROLES AND RESPONSIBILITIES
(Continued)

B. Specific Area Agency Requirements (continued)

8. Work with the providers in their development of local program plans for reaching the target populations and addressing the priority needs set forth in Sections IV, V, and VI. These plans shall be reviewed and revised by providers, with input from the Area Agencies, on an annual basis and submitted as part of the Area Elder Rights Plan and the plan for provision of Legal Assistance (Appendix B) of the Area Plan on Aging;
9. At a minimum, monitor the program annually to assess compliance with state and federal laws and regulations and contractual requirements;
10. Assure that providers have a system in place to allow clients to file complaints or grievances about the operation of the Legal Assistance program;
11. Assure that competition for funds will be available only to programs which operate in accordance with the canons, disciplinary rules and ethical considerations adopted by the State Bar of Georgia;
12. Review and approve, throughout the area plan process, the provider program policy and protocol for referral of fee generating cases as required in Section IX. This shall be done in conjunction with and in consultation with the Legal Services Developer;
13. Review and approve, through the area plan process, the provider program policy on conflicts of interest as required in Section IX. This shall be done in conjunction with and in consultation with the Legal Services Developer;
14. Assist the State and the providers in the development of a system for monitoring the quality of legal assistance services, including the assessment of lawyering skills and provider capacity to furnish legal assistance under Title IIIB of the OAA as required in Section X;

IX. AREA AGENCY ON AGING ROLES AND RESPONSIBILITIES
(Continued)

B. Specific Area Agency Requirements (continued)

15. Assist the State Legal Services Developer in developing a model Request for Proposals for adaptation to each area;
16. Assist the providers in establishing local goals for the future of the legal assistance program in consultation with the Legal Services Developer;
17. Submit program reports in a timely manner to the State Legal Services Developer using the standard Legal Assistance Programmatic Report form;
18. Set no requirements for program income and assure that the provider has in place a policy and procedure for program income that complies with IX B 11 of these Standards; and
19. Assure that program income generated by the Legal Assistance Program is used to benefit the Legal Assistance program.

C. Coordination, Training and Support Responsibilities

1. Area Agencies shall, in conjunction with the legal providers, attempt to involve the private bar in legal assistance activities, including groups within the private bar furnishing services to older individuals on a pro bono or reduced fee basis. The Area Agencies' role in this coordination should be to provide the private bar with information about local aging programs and services and to increase the awareness within the local bar about the needs of older persons in their area.
2. Area Agencies shall support the legal assistance programs by obtaining input, through the Area Plan process, on the training and support needs of providers and legal assistance clients, and shall work with the State Office of Aging to assure that providers are able to take advantage of relevant training opportunities offered.

IX. AREA AGENCY ON AGING ROLES AND RESPONSIBILITIES
(Continued)

C. Coordination, Training and Support Responsibilities (continued)

3. Area Agencies shall assure that Providers can demonstrate that all relevant Title III legal staff have sufficient training and shall review and approve the provider's description of the method for keeping staff current with the priority issue areas. This review shall occur through the Area Plan process.

X. STANDARDS FOR THE STATE UNIT ON AGING

A. General Requirements

1. The State shall annually develop an Elder Rights Plan, as a part of the State Plan, which shall include and delineate a program to provide leadership for expanding the quality and quantity of legal and advocacy assistance as a means for ensuring a comprehensive elder rights program and in accordance with the program purposes outlined in section II.
2. This function shall involve the coordination of providers in the State that assist vulnerable older individuals in the areas set out in Section VI.
3. The State shall establish a focal point for elder rights policy review, analysis, and advocacy at the State level which will include coordination of information submitted by Area Agencies under the Elder Rights plans.
4. The State will provide a full-time Legal Assistance Developer and other personnel sufficient to ensure:
 - * State leadership in securing and maintaining legal rights of older individuals;
 - * capacity for coordination of the provision of legal assistance funded under Title IIIB; and
 - * technical assistance, training and supportive functions to Area Agencies on Aging, legal assistance providers, ombudsmen and other appropriate persons;

X. STANDARDS FOR THE STATE UNIT ON AGING (Continued)

A. General Requirements (continued)

5. The State shall provide for periodic assessments of the legal and advocacy needs of older individuals with respect to elder rights and shall identify unmet needs.
6. The State shall develop working agreements with relevant state and federal agencies with respect to the legal needs of older individuals, including, but not limited to, the Legal Services Programs, the Social Security and Veterans Administrations, the court system and attorney general's office, in order to better coordinate legal services available to the elderly. The working agreement with Legal Services Programs shall address coordination through local program boundaries and varying priorities, State level relationship and program goals, and ways to assure service to vulnerable elders in priority categories while minimizing conflicts between LSC and OAA requirements for programs which are co-located.
7. In conjunction with the Area Agencies on Aging and the Legal Assistance providers, the State shall develop a system for monitoring the quality of legal assistance services, including the assessment of lawyering skills and provider capacity to furnish legal assistance under Title IIIB of the OAA. The monitoring system shall be designed in such a way as to protect the confidential nature of the assistance provided to clients and shall tie into the monitoring function performed by the Office of Aging for all other programs and services.
8. The State shall work with the providers to assure that Title IIIB funds or other funds as contracted through the Area Agency on Aging are used to maintain or increase, to the extent practicable, the level of legal assistance furnished to eligible individuals, and to assure that Title IIIB funds are not used to supplant funds from other federal or non-federal sources.

X. STANDARDS FOR THE STATE UNIT ON AGING (Continued)

B. State Training Responsibilities

1. The State shall provide for education and training of professionals, volunteers, and older individuals concerning the topics of elder rights and the requirements and benefits of certain laws and programs assisting the elderly.
2. The State shall assure that training is available to providers each year in areas of law relevant to the Title III B Legal Assistance contract and the priority areas listed in Section VII.
3. The State shall work to develop low or no cost relevant training, with choices approved for credit towards continuing legal education requirements of the State Bar of Georgia, and shall attempt whenever possible to offer such training by video or satellite.

C. Other Responsibilities

1. The State shall compile and furnish to Area Agencies and providers a report reflecting the status of legal assistance in each area and throughout the state as a whole with respect to units of service provided in the contracted areas and individual program accomplishments of note.
2. The State shall work with Area Agencies on Aging to develop a model Request for Proposals for adaptation to each area.
3. The state shall supply each provider with technical assistance and guidance as may be necessary or requested by the Area Agency or Legal Assistance provider. However, the State shall respect the contractual relationship between providers and Area Agencies and shall not interfere with this relationship unless requested or unless federal and state laws and requirements, including those set forth in these standards, are implicated.
4. The State shall periodically review and update these Standards, with input from the Area Agencies and Legal Assistance providers, and shall provide training on the application of the Standards to Area Agencies and Providers.

APPENDIX A

List of Participants in Task Force Meetings
Conveners: Penelope Hommel and Jim Bergman
The Center for Social Gerontology
Ann Arbor, Michigan

Provider Level

Bill Broker, Managing Attorney
Georgia Legal Services Program
Savannah Office (AGS and Coastal)

Luke Closson, Managing Attorney
Closson and Bass
Valdosta (South GA)

Kathleen Ernce,
Senior Advocacy Programs Director
Senior Citizens Council
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Steve Krumm, Director
Senior Citizens Law Project

State Unit on Aging

Penny Balckford, Manager
Program Operations Unit

Ellie Crosby,
Legal Services Developer

Joanne Mathis,
State Long-term Care Ombudsman

Area Agency Level

Katie Carmack, Director
Lower Chattahoochie AAA

Kay Hind, Director
South West Georgia
Council on Aging

Cheryll Schramm/
Sharon Dixon
Atlanta Regional
Commission

Other Participants

Steve Gottlieb, Director
Atlanta Legal Aid Society.

Phyllis Holmen, Director
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Jenny Mittleman,
Office of General Counsel
State Bar of Georgia

Ways to Provide Training on Standards

By Ellie Crosby,
Former Legal Services Developer in Georgia

Once the process of developing and finalizing standards has been completed, affected parties (Providers, Area Agency on Aging staff and/or State Unit staff) will need training on the content of the standards and the next steps for implementation of the standards. There are a number of different ways to achieve an orientation to legal assistance standards and the best way will depend on how legal assistance is structured in your state.

A developer may choose to mail the standards out along with a brief overview and later provide training and technical assistance on a one-on-one basis through site visits to Area Agencies and providers. This way would allow for individual assessment of compliance and areas which need work, but could be costly and time consuming.

A developer could hold a straightforward training on the content of the standards for AAAs and providers. Advantages to this approach include the ability to cover every aspect of the standards, as well as provide for questions and dialogue about the content of the standards. The primary drawback to this approach is that it does not necessarily assist people in getting to the next step, that is, what implementation of standards will mean to their area.

Another approach that has proved to be very successful involves a combination of the above two suggestions. The developer convenes a meeting of providers, State Unit staff and Area Agency staff responsible for legal assistance. Participants sit at tables, which reflect different perspectives and abilities (in other words, mix people up together). Each table is given a group of standards provisions to review and discuss. The assigned provisions follow a subject area (such as program confidentiality, monitoring, program contributions, outreach and targeting, training, etc.) and should include the relevant provisions for each level of the program if applicable (i.e. state level responsibilities, provider responsibilities, area agency responsibilities).

Participants discuss the content of their assigned standards and brainstorm about how to achieve compliance in their area. Where already in compliance, participants share ideas about how that has been achieved. The ideas are recorded on flip charts. Each group reports back to everyone, describing the content of the assigned standard and the ideas for compliance. Time for questions and other suggestions from the group is built into the format.

The ideas are later put on paper and mailed to all relevant parties as a follow-up to the training. Individual technical assistance is provided to those areas in need of additional help in implementing the standards.

