

TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 5 AREA AGENCY ON AGING DESIGNATION

9.2.5.1 ISSUING AGENCY: New Mexico Aging and Long-Term Services Department (NMALTSO).
[9.2.5.1 NMAC - Rp, 9.2.5.1 NMAC, 09/23/2025]

9.2.5.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.
[9.2.5.2 NMAC - Rp, 9.2.5.2 NMAC, 09/23/2025]

9.2.5.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.
[9.2.5.3 NMAC - Rp, 9.2.5.3 NMAC, 09/23/2025]

9.2.5.4 DURATION: Permanent.
[9.2.5.4 NMAC - Rp, 9.2.5.4 NMAC, 09/23/2025]

9.2.5.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited at the end of a section.
[9.2.5.5 NMAC - Rp, 9.2.5.5 NMAC, 09/23/2025]

9.2.5.6 OBJECTIVE: The objective of this rule is to establish the AAA application and designation process.
[9.2.5.6 NMAC - Rp, 9.2.5.6 NMAC, 09/23/2025]

9.2.5.7 DEFINITIONS: See 9.2.1.7 NMAC for definitions.
[9.2.5.7 NMAC - Rp, 9.2.5.7 NMAC, 09/23/2025]

9.2.5.8 LEGAL REFERENCES: [RESERVED]
[9.2.5.8 NMAC - Rp, 9.2.5.8 NMAC, 09/23/2025]

9.2.5.9 NEED FOR DESIGNATION: Applications for designation as an area agency on aging (AAA), under the Older Americans Act, must be solicited by the department when a new planning and service area (PSA) has been designated, when an existing AAA has been de-designated, or when an existing AAA has voluntarily withdrawn its designation.
[9.2.5.9 NMAC - Rp, 9.2.5.9 NMAC, 09/23/2025]

9.2.5.10 TYPE OF DESIGNATION: The department may designate federally recognized AAAs under the auspices of the Older Americans Act or may designate non-federally recognized AAAs under state authority. Non-federally recognized AAAs shall be established and shall operate under the same rules as federally recognized AAAs unless otherwise negotiated with the designated organization.
[9.2.5.10 NMAC - Rp, 9.2.5.10 NMAC, 09/23/2025]

9.2.5.11 ELIGIBILITY AND PREFERENCE FOR DESIGNATION:
 A. An AAA may be any of the following:
 (1) an established aging organization which operates in a PSA;
 (2) any office or agency designated by the chief elected officials of a unit of general purpose local government to function only as an AAA;
 (3) any office or agency designated by the chief elected officials of any combination of units of general purpose local government to act on behalf of the combination for such purpose; or
 (4) any non-state local public or private non-profit organization in a PSA, or any separate unit within such organization, which is under the supervision or direction for this purpose of the designated state

agency, and which demonstrates the ability and willingness to engage in the planning or provision of a broad range of services under the Older Americans Act within such planning and service area.

B. No regional or local office of state government may be designated as an AAA.
[9.2.5.11 NMAC - Rp, 9.2.5.11 NMAC, 09/23/2025]

9.2.5.12 APPLICATION PROCESS AND PROCEDURE:

A. When it is necessary to solicit applications for area agency on aging designation pursuant to 9.2.5.9 NMAC, the department shall provide public notice of the need to solicit applications for designation and the process by which an entity can apply for such designation.

B. The department shall provide public notice as follows:

- (1) in newspapers of general circulation in the planning and service area for which AAA applications are being solicited;
- (2) on the department website;
- (3) via electronic dissemination to New Mexico's aging network; and
- (4) in written notification to units of general purpose local government in the planning and service area.

C. In the written notification to the unit(s) of general purpose local government, the department shall solicit the views of such unit(s) of general purpose local government in the application process of any AAA.
[9.2.5.12 NMAC - Rp, 9.2.5.12 NMAC, 09/23/2025]

9.2.5.13 AREA AGENCY ON AGING REPLACEMENT REQUIREMENTS: Any unsolicited application for AAA designation which, if approved, would result in the replacement of a formally designated area agency on aging or substantially impact the aging network within the PSA involved, must include:

A. written indication of support, by resolution, of seventy-five percent of the governing bodies of municipalities and counties within the PSA boundaries;

B. documentation that existing services can be substantially improved through the proposed change in designation;

C. assurance that no staff or board member of the applicant has served on the staff or board of the existing area agency on aging within the affected PSA, the department, or the United States administration for community living for a period of not less than two years prior to the date of notification of application; and

D. other criteria deemed relevant by the department to the applicant's ability to carry out the duties of an AAA.

[9.2.5.13 NMAC - Rp, 9.2.5.13 NMAC, 09/23/2025]

9.2.5.14 REVIEW AND ASSESSMENT: The department shall review each application for completeness and ability to meet the necessary requirements of designation. The entity being considered for AAA designation shall provide an opportunity for on-site review and assessment by the department to ensure that said entity has the capacity to perform the functions of an AAA, including the requirements set forth in 9.2.6 NMAC. The department shall consider the views offered by the unit(s) of general purpose local government throughout its assessment process.
[9.2.5.14 NMAC - Rp, 9.2.5.14 NMAC, 09/23/2025]

9.2.5.15 DESIGNATION REQUIREMENT: The department is responsible for designating an area agency on aging to serve each planning and service area. Only one area agency on aging shall be designated to serve each planning and service area for which the department allocates funds under Title III of the Older Americans Act, supplemental state funds, or both.

A. An area agency that serves more than one planning and service area must maintain separate funding, planning, and advocacy responsibilities for each planning and service area.

B. When designating a new AAA, the department shall give right of first refusal to unit(s) of general purpose local government if such unit can meet the requirements of 9.2.5.13 NMAC and 9.2.5.14 NMAC, and the boundaries of the PSA are reasonably contiguous. If any unit of general purpose local government chooses not to exercise right of first refusal, the department shall then give preference to an established AAA or aging organization which operates in the PSA and shall take into consideration the historical experience applicants have had in coordination, planning, and delivery of services for older adults. The department secretary shall approve or disapprove any applications for designation in writing.

[9.2.5.15 NMAC - Rp, 9.2.5.15 NMAC, 09/23/2025]

9.2.5.16 RIGHT TO APPEAL: Applicants who have been denied designation may appeal as provided in 9.2.11 NMAC.
[9.2.5.16 NMAC - Rp, 9.2.5.16 NMAC, 09/23/2025]

9.2.5.17 DESIGNATED AAAs:
A. The designated AAAs are posted to the department's web site.
B. All designation approvals shall be maintained in the appropriate department records.
[9.2.5.17 NMAC - Rp, 9.2.5.17 NMAC, 09/23/2025]

9.2.5.18 CONFLICTS OF INTEREST POLICIES AND PROCEDURES: The area agency must have policies and procedures regarding conflicts of interest in accordance with the Act, guidance as set forth by the assistant secretary for aging, and state agency policies and procedures as set forth at 45 C.F.R. Section 1321.47. These policies and procedures must safeguard against conflicts of interest on the part of the area agency, area agency employees, governing board and advisory council members, and awardees who have responsibilities relating to the area agency's grants and contracts. Conflicts of interest policies and procedures must establish mechanisms to avoid both actual and perceived conflicts of interest and to identify, remove, and remedy any existing or potential conflicts of interest at organizational and individual levels.
[9.2.5.17 NMAC - N, 09/23/2025]

9.2.5.19 AREA AGENCY ON AGING TITLE III AND TITLE VI COORDINATION RESPONSIBILITIES:

A. For planning and service areas where there are Title VI programs, the area agency's policies and procedures, developed in coordination with the relevant Title VI program director(s), as set forth in 45 C.F.R. Section 1322.13(a), must explain how the area agency's aging network, including service providers, will coordinate with Title VI programs to ensure compliance with 42 U.S.C. Section 3062(a)(1)(B).
B. The policies and procedures set forth in subsection (A) of this section must at a minimum address:
(1) How the area agency's aging network, including service providers, will provide outreach to Tribal elders and family caregivers regarding services for which they may be eligible under Title III;
(2) The communication opportunities the area agency will make available to Title VI programs, to include Title III and other funding opportunities, technical assistance on how to apply for Title III and other funding opportunities, meetings, email distribution lists, presentations, and public hearings;
(3) The methods for collaboration on and sharing of program information and changes, including coordinating with service providers where applicable;
(4) How Title VI programs may refer individuals who are eligible for Title III services;
(5) How services will be provided in a culturally appropriate and trauma informed manner;
and
(6) Opportunities to serve on advisory councils, workgroups, and boards, including area agency advisory councils as set forth in 45 C.F.R. Section 1321.63.
[9.2.5.18 NMAC - N, 09/23/2025]

9.2.5.20 STATE AGENCY OBLIGATION: The department shall assume area agency on aging responsibilities in the event there are no successful applicants in the state agency's application process including the responsibility to administer the agency area on aging programs in accordance with 42 U.S.C. Section 306(f).
[9.2.5.20 NMAC - N, 09/23/2025]

HISTORY OF 9.2.5 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: SAA Rule No. 95-5, Area Agency Designation, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-5, filed 4/13/1995 - Repealed 6/30/2015.

9.2.5 NMAC, Area On Agency Designation (filed 6/17/2015) Repealed effective 09/23/2025.

Other: 9.2.5 NMAC, Area On Agency Designation (filed 6/17/2015) Replaced by 9.2.5 NMAC, Area On Agency Designation effective 09/23/2025.