



POLICY & PROCEDURE – Number 02.405

Title: Appeal of Older Americans Act Grant Awards

Adopted: 06/18/87

Revised: 08/23/90, 08/27/92, 01/22/04,
01/19/06, 01/15/15

I. POLICY

A. AUTHORITY

AgeSmart Community Resources Bylaws.

B. POLICY STATEMENT

It is the policy of AgeSmart's Board of Directors (hereinafter the "Board") to offer grantees (sub-sub recipients) who have an active Older Americans Act (OAA) grant with AgeSmart or current grant applicants an opportunity for an impartial hearing with respect to certain Board decisions. Only grantees or applicants directly affected by a decision of the Board are entitled to appeal. Third parties, such as consumers of services or subcontractors of services, even if they are or believe themselves to be affected by a decision of the Board, are not entitled to appeal a decision of the Board nor do they have a right to a hearing.

Special consideration of decisions that may be appealed:

- Unsuccessful grant application
- Suspension and/or termination of an existing (OAA) grant
- A Board decision that relates to grant administration alleged to violate the requirements set forth in PP 02.401.

In all appeals the initiating grantee (hereinafter the "appellant" or "Petitioner") has the burden of proof.

II. PROCEDURE

A. PURPOSE

To ensure a fair and prompt hearing process.

B. APPLICABILITY

This policy applies to AgeSmart's OAA grantees (sub-sub-recipients) only.

C. REQUIREMENTS

- 1. An appellant may appeal a Board decision by requesting a hearing within seven (7) working days from their receipt of notice of a decision of the

Board by requesting a hearing on the issue or action appealed form. There is no other mechanism or method for appealing a decision of the Board. Each request for hearing must be filed within the time period set forth herein and a Petition, as described in this Policy, must be filed with the request for hearing. Each request and Petition must be in writing and mailed or delivered at AgeSmart office to AgeSmart’s Chief Executive Officer (CEO). A request and Petition delivered by mail will be deemed received five (5) calendar days from the date of mailing; a request and Petition delivered by overnight mail or a mail delivery service such as Fed Ex or UPS will be deemed received on the date of delivery; a request and Petition delivered by courier or otherwise hand-delivered will be deemed received upon delivery. Neither a request nor a Petition may be delivered via FAX, e-mail, or other electronic means of transmission.

An appellant who fails to request a hearing and submit their Petition within seven (7) working days from receipt of notice of a decision of the Board has no right to a hearing and is foreclosed from appealing a decision of the Board. AgeSmart will take no further or other action with respect to an untimely appeal and will dismiss a request and petition if either is submitted late.

- 2. A Petition must be filed with each request for hearing. Each Petition must contain the following:
 - a. A caption containing the full legal name of the appellant, designating him/her as “Petitioner” and naming the Board as “Respondent” in the following form:

PETITION FOR HEARING

(NAME),)	
Petitioner,)	
)	
vs.)	No. _____
)	
The Board of Directors of)	
AgeSmart Community)	
Resources,)	
Respondent.)	

- b. Separate paragraphs containing the following:
 - 1.) A plain and concise statement of facts showing the Petitioner’s standing to file.

- 2.) A plain and concise jurisdictional statement stating the grounds upon which AgeSmart's jurisdiction depends, with specific reference by section and number to the laws, acts, statutes, rules, and/or regulations the Petitioner alleges convey jurisdiction.
- 3.) A plain and concise statement of any violations of law, act, statute, rule, and/or regulation alleged by Petitioner, with specific reference by section or number.
- 4.) A plain and concise statement of the Petitioner's claim, including any action taken or made, which the Petitioner alleges that Petitioner is, will be, or has been harmed and is entitled to relief.
- 5.) The date of the alleged adverse action or the date the action began.
- 6.) A request for relief. These may be in the alternative, and one or more types of relief may be requested.

3. Time Limitation

- a. Within thirty (30) days from the receipt of a request for hearing and a Petition, the CEO will schedule a hearing at a time, date, and location agreeable to the Petitioner and the Respondent. If the parties are unable to agree, the CEO will schedule a hearing within sixty 60 days from receipt of a request, and the hearing will be conducted in a private office/room at AgeSmart's principal place of business on a business day during the hours between 8:00 a.m. and 4:00 p.m.
- b. Not less than fifteen (15) days before the hearing, the CEO will designate an impartial hearing officer, not a participant in the decision being appealed, to conduct the hearing. The hearing officer need not be an attorney or certified mediator or arbitrator.
- c. Not less than fifteen (15) days before the scheduled hearing, the CEO shall send or cause to be sent, by registered or certified mail, a notice of hearing to the Petitioner. The notice will set forth the time, date, and location of the hearing, include information concerning procedures or rules pertaining to the hearing process, and identify by name the impartial hearing officer who will conduct the hearing.

4. The Petitioner may represent appellate organization at the hearing, or may be represented by an attorney or by a representative selected by the Petitioner and authorized to act on their behalf. The Petitioner need not be present at the hearing, if represented by counsel or by a representative. The actions, representations, admissions, omissions, agreements, promises, and consents of the Petitioner's attorney or representative are binding on the Petitioner unless the Petitioner is present at the hearing and states otherwise. Neither AgeSmart nor the Respondent is responsible for the Petitioner's attorney's fees, for charges made by the Petitioner's representative, or for any costs, fees, or expenses incurred by the Petitioner or their counsel or representatives in connection with the hearing.
5. The Petitioner, their attorney or representative may submit documents, present evidence, call witnesses, cross examine Respondent's witnesses, and present rebuttal evidence. The Petitioner, their attorney, or representative and the Respondent may make brief opening and closing statements.
6. The parties may agree to extend the time for scheduling a hearing, they may postpone a scheduled hearing, and/or they may continue, adjourn and reconvene a hearing. The hearing officer may do likewise when, in their sole discretion, he/she believes it to be in the best interests of the parties to do so and/or when he/she believes that the interest of fundamental fairness will be best served by so doing.
7. An impartial hearing officer will preside over the hearing. The hearing will be as informal as possible consistent with the rights of the parties to be heard and the dignity of the persons involved.
8. The Petitioner, their attorney, or representative may withdraw or dismiss their Petition at any time by filing a signed notice of withdrawal or dismissal or by indicating their withdrawal or dismissal before the impartial hearing officer, on the record.
9. Dismissal of Appeals
 - a. If the Petitioner, their attorney or representative do not appear at the hearing, the Petition will be dismissed.
 - b. If the Petitioner, their attorney or representative refuse to proceed with the hearing, or are unduly disruptive or abusive in the judgment of the hearing officer, the Petition will be dismissed.
 - c. If the Petition is dismissed, the Petitioner, their attorney or representative will be notified of such dismissal in writing. The hearing officer or the CEO will send written notice by

registered or certified mail. Notice to either the Petitioner, their attorney or representative will be notice to all.

- d. Dismissal may be vacated for good cause and only upon the written request of the Petitioner, their attorney, or representative. Good cause is defined as an extraordinary circumstance. Examples include a death in the family; a personal injury, accident, or an illness which reasonably prevents attendance involving the Petitioner, their attorney, or representative, or their family members; an act or war, civil unrest, or terrorism; and/or an act of God, including very inclement weather conditions. A request to vacate must be received by AgeSmart within seven (7) working days of Petitioner's receipt, or receipt by their attorney or representative, of the notice of dismissal. A request to vacate must include a statement of good cause to support the request. Requests to vacate must be delivered to the hearing officer or CEO. Requests delivered by mail will be deemed received five (5) calendar days from the date of mailing; a request delivered by overnight mail or a mail delivery service such as Fed Ex or UPS will be deemed received on the date of delivery; a request delivered by courier or otherwise hand-delivered will be deemed received upon delivery. A request may not be delivered by FAX, e-mail, or other electronic means or transmission.
 - e. Disposition by dismissal is a final decision.
10. The hearing will be transcribed by a certified court reporter authorized by the State of Illinois to administer oaths and obtain affirmations. Witnesses may testify only upon oath or affirmation. The court reporter will prepare a transcript of the hearing and deliver it to the hearing officer. The Respondent will pay for the transcript provided to the hearing officer. If the Petitioner wants a copy of the transcript, Petitioner must pay for it.
 11. Within ten (10) working days after receiving the transcript of the hearing, the impartial hearing officer will issue a recommended decision. The parties may agree in writing to an extension of ten (10) additional working days within which the hearing officer will render their recommended decision. In the decision, the hearing officer will include findings of fact, identify those laws, acts, rules and/or regulations that the he/she relied upon in reaching their decision and state the reasons for the decision. The hearing officer will recommend action with respect to each issue presented at the hearing. The hearing officer will certify their recommended decision and the transcript and deliver both to the CEO. The CEO will present the hearing officer's decision to the Executive Committee at a specially convened meeting to consider the decision. The Executive Committee will then vote to adopt or reject the

recommended decision of the hearing officer and that action by the Executive Committee will constitute the final decision of AgeSmart.

12. Within seven (7) working days following the vote of the Executive Committee, the CEO will send written notice of AgeSmart's final decision and a copy of the hearing officer's recommended decision to the Petitioner, their attorney or representative. Notice to one shall constitute notice to all. The notice shall advise the Petitioner of their right to request administrative review by the Illinois Department on Aging of AgeSmart's final decision. The notice shall include the address to which Petitioner must make their request for administrative review and the number of days within which a request must be made. The administrative review will be limited to a determination of AgeSmart's adherence to the procedure for conducting a hearing and the procedure established by AgeSmart for awarding grants and contracts under the approved Area Plan.