

# AMERICANS WITH DISABILITIES ACT PLAN

Including policies regarding General ADA Requirements, Reasonable Modifications,  
and a Suspension Appeals Process

*for*

## AREA AGENCY ON AGING 3, INC.

**Approved by:**

Board of Directors

**Date Approved:**

January 24, 2023

**ADA Contact Information**

Name & Title: Chief Operations Officer

Mailing Address: 2423 Allentown Road, Lima Ohio, 45805

Phone Number: 419-222-7723

**Reasonable Modification Contact Information**

Title: Chief Operations Officer

## I. Introduction and Purpose

The Americans with Disabilities Act of 1990 (ADA) requires that individuals with disabilities receive the same level of service as non-disabled individuals. Services that are “separate but equal” are not acceptable. Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

This ADA policy is written to establish operating and service guidelines and procedures for the implementation of the requirements of the Americans with Disabilities Act of 1990 (ADA), the U.S. Department of Transportation (U.S. DOT) regulations for implementing ADA (49 CFR Parts 27, 37 and 38), and any applicable state laws and regulations. AREA AGENCY ON AGING 3, INC. provides a variety of public services and complies with ADA requirements with respect to such services. All contracted agencies, corporations, and individuals who provide direct services on behalf of the Area Agency on Aging 3 such as transportation, personal care, meals and etc. will be monitored for compliance with ADA, U.S. DOT regulations for implementing ADA, and any applicable state laws and regulations.

### **ADA Policy Statement**

It is the policy of AREA AGENCY ON AGING 3, INC. to comply with all the legal requirements of federal and state laws and regulations as they pertain to individuals with disabilities. If state laws and federal regulations are contradictory, the federal ADA regulations prevail. The Agency provides quality services without discrimination to all persons including individuals with disabilities. Discrimination on the basis of disability against any person by Agency employees will not be condoned or tolerated.

**Applicability:** This policy applies to all Agency employees, services, facilities, and providers. It applies equally to all persons needing and/or using the services provided by the Agency.

### **Definitions:**

*Disability:* With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

*Mobility Device:* A device that is designed to assist an individual with disabilities with locomotion. Examples include wheelchairs, canes, crutches, and walkers. Also called mobility aid.

*Service Animal:* Any guide dog, signal dog, or other animal that has been individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

*Wheelchair:* A mobility aid belonging to any class of three- or more- wheeled devices, usable indoors, designed or modified for and used by individuals with mobility

impairments, whether operated manually or powered.

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## II. General Guidance and Procedures for Implementing Policy

### Recruitment and Employment

As stated in the PSA 3 Agency on Aging personnel policies, the agency is an Equal Opportunity Employer (EOE) and fully complies with ADA in its recruitment, hiring, and continued employment practices.

### Facility Accessibility

The PSA 3 Agency on Aging administrative facility shall meet or exceed the requirements of 49 CFR Parts 27, 37 and 38 and requirements of the State of Ohio. If state requirements do not meet federal requirements, the federal ADA regulations prevail.

### Seat Belt Usage

When riding in a AREA AGENCY ON AGING 3, INC. vehicle, seat belts and shoulder harnesses:

are required for ALL passengers.

### Complaint Procedure

All complaints of discrimination on the basis of disability will be promptly and objectively investigated and forwarded to the department's Vice President and/or Human Resources and promptly and objectively investigated. Complaints are also be submitted to the ODOT Civil Rights Office and other applicable State Agencies such as the Ohio Department of Aging, Ohio Department of Medicaid.

AREA AGENCY ON AGING 3, INC. will promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant. The response will be documented. Corrective or disciplinary action will be taken for behavior prohibited by this policy, up to and including termination of employment.

Documentation of each complaint will be kept on file for a minimum of one year, and a summary of all complaints will be kept for at least five years. This meets DOT regulations that require FTA grantees to maintain all complaints of noncompliance with 49 CFR Part 27 for one year, and a record of all such complaints, which is permitted to be in summary form, for five years.

## Reasonable Modification Policy

The purpose of the reasonable modification policy is to ensure that AREA AGENCY ON AGING 3, INC. offers equal and effective opportunities and access to public services for persons with disabilities and full compliance with the provisions of the Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.

This policy applies to all safety-sensitive service providers including full, part time and those employees who are employed by agency service providers that may be required to provide services and/or operate vehicles. For the purposes of this section, the term reasonable accommodation shall be interpreted in a manner consistent with the term “reasonable modifications” as set forth in the Americans with Disabilities Act Title II regulations at 28 CFR 35.130(b)(7), and not as it is defined or interpreted for the purposes of employment discrimination under Title I of the ADA (42 U.S.C. 12111–12112) and its implementing regulations at 29 CFR part 1630.

AREA AGENCY ON AGING 3, INC. is committed to providing equal access and opportunity to individuals with disabilities in all programs, services and activities. AREA AGENCY ON AGING 3, INC. recognizes that in order to have equally effective opportunities and benefits, individuals with disabilities may need reasonable modifications to policies and procedures. AREA AGENCY ON AGING 3, INC. will adhere to all applicable federal and state laws, regulations and guidelines with respect to providing reasonable modifications, as necessary, to afford equal access to programs for persons with disabilities. AREA AGENCY ON AGING 3, INC. does not discriminate on the basis of disability in admission to, participation in, or receipt of services and benefits under any Agency program or activity. AREA AGENCY ON AGING 3, INC. will take appropriate steps to ensure that persons with disabilities have an equal opportunity to participate.

No individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of AREA AGENCY ON AGING 3, INC., or be subject to discrimination by AREA AGENCY ON AGING 3, INC..

A reasonable modification is a change or exception to a policy, practice, or procedure that allows persons with disabilities to have equal access to programs, services, and activities. AREA AGENCY ON AGING 3, INC. will make reasonable modifications to policies, practices, and procedures when necessary to ensure access to services for individuals with disabilities, unless:

- ◆ Making the accommodation would fundamentally alter the nature of the public service.

- ◆ Making the accommodation would create a direct threat to the health or safety of others.
- ◆ The individual with a disability is able to fully use AREA AGENCY ON AGING 3, INC.'s service without the accommodation being made.
- ◆ Making the accommodation creates an undue financial burden on the Agency.

#### ELIGIBILITY CRITERIA

An individual is eligible to be considered to receive a reasonable modification if that individual has:

- ◆ A physical or mental impairment that substantially limits one or more of the major life activities of such individual
- ◆ A record of such impairment
- ◆ Or has been regarded as having such impairment.

#### REQUESTS FOR REASONABLE MODIFICATION

AREA AGENCY ON AGING 3, INC. shall make information about how to contact AREA AGENCY ON AGING 3, INC. to make requests for reasonable modifications readily available to the public through its website, brochures, and other policy guidelines. AREA AGENCY ON AGING 3, INC. shall follow these procedures in taking requests:

- a. Individuals requesting modifications shall describe the modification to service needed in order to use the service.
- b. Individuals requesting modifications are not required to use the term "reasonable modification" when making a request. Personnel at AREA AGENCY ON AGING 3, INC. will determine if the request represents a reasonable modification and proceed in accommodating the request accordingly.
- c. Whenever feasible, AREA AGENCY ON AGING 3, INC. requests that individuals make such requests for modifications before AREA AGENCY ON AGING 3, INC. is expected to provide the modified service.
- d. Where a request for modification cannot practicably be made and determined in advance (*e.g.*, because of a condition or barrier at the destination of a paratransit, demand response, or fixed route trip of which the individual with a disability was unaware until arriving), operating personnel shall make a determination of whether the modification should be provided at the time of the request. Operating personnel may consult with AREA AGENCY ON AGING 3, INC.'s management before making a determination to grant or deny the request.

Requests for accommodation may be made either orally or in writing. The reasonable accommodation process begins as soon as the request for accommodation is made. The request can be submitted in any written format. Alternative means of filing a request, such as personal interviews, phone calls, or taped requests, will be made available for persons with disabilities if unable to communicate their request in writing or upon request.

#### INTERACTIVE PROCESS

When a request for accommodation is made, AREA AGENCY ON AGING 3, INC., contracted provider and the individual requesting an accommodation must engage in a good faith interactive process to determine what, if any accommodation shall be provided. The individual, contracted provider, and the AREA AGENCY ON AGING 3, INC. must communicate with each other about the request, the process for determining whether an accommodation will be provided, and the potential accommodations. Communication is a priority throughout the entire process.

#### TIME FRAME FOR PROCESSING REQUESTS TO PROVIDE REASONABLE MODIFICATION

AREA AGENCY ON AGING 3, INC. and when applicable the contracted provider will process requests for reasonable accommodation and then provide accommodations, where appropriate, in as short a time frame as reasonably possible. AREA AGENCY ON AGING 3, INC. recognizes, however, that the time necessary to process a request will depend on the nature of the accommodation(s) requested and whether it is necessary to obtain supporting information.

#### GRANTING A REASONABLE MODIFICATION REQUEST

As soon as AREA AGENCY ON AGING 3, INC. and provider determines that a reasonable accommodation will be provided, that decision shall be immediately communicated to the individual and contracted provider. This notice must be in writing in order to maintain the required information for reporting purposes. Upon request, alternative means of response will be provided.

In choosing among alternatives for meeting nondiscrimination and accessibility requirements with respect to new, altered, or existing facilities, or designated or specified services, AREA AGENCY ON AGING 3, INC. shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate to the needs of individuals with disabilities.

#### DENIAL OF REASONABLE MODIFICATION REQUEST

As soon as AREA AGENCY ON AGING 3, INC. and/or service provider determines that a request for reasonable accommodation will be denied, AREA AGENCY ON AGING 3, INC. and the provider will determine who will

communicate the basis for the decision in writing to the individual requesting the modification. The explanation for the denial will clearly state:

- ◆ The specific reasons for the denial;
- ◆ Any alternative accommodation that may create the same access to services as requested by the individual; and
- ◆ The opportunity to file a complaint relative to the AREA AGENCY ON AGING 3, INC. decision on the request.

#### COMPLAINT PROCESS

AREA AGENCY ON AGING 3, INC. has a process for investigating and tracking complaints from qualified individuals. These procedures shall be posted on the AREA AGENCY ON AGING 3, INC.'s website and will be provided to any individual where the AREA AGENCY ON AGING 3, INC. has denied a request for accommodation. The process and any forms necessary to file a complaint are readily available from the web. Alternative means of filing complaints, such as personal interviews, phone calls, or taped requests, will be made available for persons with disabilities if unable to communicate their request in writing or upon request. Contracted providers will also be required to adhere to the same requirements stated above.

Any person who believes she or he has been discriminated against in obtaining a reasonable modification may file a complaint by completing and submitting a AREA AGENCY ON AGING 3, INC.'s Reasonable Modification Complaint Form. AREA AGENCY ON AGING 3, INC. investigates complaints received no more than 30 days after receipt. AREA AGENCY ON AGING 3, INC. will process complaints that are complete. Once the complaint is received, the complainant will receive an acknowledgement of receipt. If more information is needed to resolve the complaint, AREA AGENCY ON AGING 3, INC. may contact the complainant. The complainant has 30 business days from the date of the letter to send requested information to AREA AGENCY ON AGING 3, INC..

If AREA AGENCY ON AGING 3, INC. is not contacted by the complainant or does not receive the additional information within 30 business days, the AREA AGENCY ON AGING 3, INC. may administratively close the complaint. In addition, a complaint may be administratively closed if the complainant no longer wishes to pursue their case.

After AREA AGENCY ON AGING 3, INC. investigates the complaint, a decision will be rendered in writing to the complainant. AREA AGENCY ON AGING 3, INC. will issue either a Letter of Closure or Letter of Finding.

- ◆ **Letter of Finding** – This letter will summarize the complaint, any interviews conducted regarding the complaint, and explains what actions

will be taken by AREA AGENCY ON AGING 3, INC. to address the complaint.

- ◆ **Letter of Closure** – This letter will explain why AREA AGENCY ON AGING 3, INC. has determined that the complaint does not merit accommodation under the Americans with Disabilities Act and that the complaint will be closed.

If the complainant disagrees with the decision of AREA AGENCY ON AGING 3, INC., an opportunity to appeal the decision may be pursued provided the complaint files notice of appeal within 21 days of the initial decision of AREA AGENCY ON AGING 3, INC..

In the event of appeal, the complainant will be granted all due process, including the ability to be present additional evidence, present the case in person during an appeal hearing, and to be represented by counsel.

#### DESIGNATED EMPLOYEE

AREA AGENCY ON AGING 3, INC. shall designate one official within the organization responsible for processing reasonable modification requests and handling complaints. This individual is:

Chief Operations Officer  
AREA AGENCY ON AGING 3, INC.  
2423 Allentown Road, Lima Ohio, 45805  
419-222-7723

#### RECORD RETENTION

AREA AGENCY ON AGING 3, INC. will maintain all records related to reasonable modification requests and denials for at least three (3) years.

## **Suspension Appeals Process**

A suspension may result from violations of behavior rules, violation of the no-show policy, or for other inappropriate or disruptive behavior. Regardless of the reason for suspension, each individual has a right to appeal the decision through an appeals process.

Appeals must be submitted in writing to Chief Operations Officer, by mail at 2423 Allentown Road, Lima Ohio, 45805, or by email within 14 days of notification of suspension. All individuals will be permitted to continue using service during the appeals process. AREA AGENCY ON AGING 3, INC. management will inform all schedulers/providers that the suspension is pending an appeal and to allow service to continue for the affected individual.



An Appeals Committee will review all applicable information from AREA AGENCY ON AGING 3, INC. and the involved individual. All service recipients will be offered the opportunity to speak directly with Committee members and/or the Chief Operations Officer regarding the submitted appeal and/or circumstances that led the suspension and subsequent appeal.

After a thorough review of all available information and testimony, the Appeals Committee will have 72 hours in which to issue a recommendation to sustain or reverse the suspension. The Committee recommendation will be forwarded to the Chief Executive Officer for final review and implementation.

The AREA AGENCY ON AGING 3, INC. administration will have three (3) days to issue a final suspension decision in writing to the individual involved. All final decisions will be implemented within seven (7) days of individual notification.

All communications will be made available in alternate format upon request.

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# *ADA/Title VI Complaint Form*

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## **Background**

This form is used for both Title VI and Americans with Disabilities Act (ADA) complaints.

The Civil Rights of 1964 (Title VI) identifies the three classes protected by Title VI—race, color, and national origin—and allow the complainant to select one or more of those protected classes as the basis/bases for discrimination. If any of the Limited English Proficient (LEP) populations in our service area meet the Safe Harbor threshold, then the procedure will be provided in English and in any other language(s) spoken by LEP populations that meet the Safe Harbor Threshold.

The Americans with Disabilities Act of 1990 (ADA), provides protection that no individual with a disability shall on the basis of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any federally funded program, service, or activity.

AREA AGENCY ON AGING 3, INC. is committed to providing non-discriminatory service to ensure that no person is excluded from participation in, or denied the benefits of, or subjected to discrimination in the receipt of its services on the basis of race, color, or national origin as protected by Title VI of the Civil Rights Act of 1964 (Title VI) as well as providing protection that no individual with a disability shall on the basis of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination as stated in the Americans with Disabilities Act of 1990 (ADA).

If you feel that you have been discriminated against, please provide the following necessary information to facilitate the processing of your complaint. If assistance is required to complete the form, or if you have questions, please do not hesitate to call the ADA/Title VI Coordinator at 419-222-7723. **Once completed, return a signed and dated copy to:**

**Chief Operations Officer  
2423 Allentown Road, Lima Ohio, 45805**

*Note: The following information is necessary to assist us in processing your complaint. Should you require any assistance in completing this form, please call 419-222-7723.*

Please check one of the following below:

**ADA Complaint** or  **Title VI Complaint**

**Part I.**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Additional Formats Needed:

- None                       TDD  
 Large Print               Audio Tape  
 Other

**Part II.**

Are you filing this complaint on your own behalf?

- Yes – Proceed to Part III  
 No – Please provide the name of and your relationship with this person:

Name of Individual: \_\_\_\_\_

Your Relationship: \_\_\_\_\_

Please explain why you have filed for a third party:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Confirm:

- I have obtained permission of the aggrieved party to file this form on his or her behalf.  
 I have not confirmed permission to file this form on behalf of the aggrieved party.

**Part III.**

I believe the discrimination I experienced was based on:

- Race  
 Color  
 National Origin  
 My Disability  
 Other: \_\_\_\_\_

Date of the alleged discrimination: \_\_\_\_\_

Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses.

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**Part IV.**

Have you previously filed an ADA and/or Title VI complaint with this agency?

- Yes
- No

**Part V.**

Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court?

- Yes
- No

If yes, check all that apply:

- Federal Agency       Federal Court
- State Agency         State Court
- Local Agency

Please provide the contact information for a person at the agency or court where the complaint was filed:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

**Part VI.**

Name of agency complaint is against: \_\_\_\_\_

Contact person: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone number: \_\_\_\_\_

*Important Notice:* To protect your rights, your complaint must be filed within 180 days following the date of the alleged discrimination. Failure to file within 180 days may result in dismissal of the complaint. You may attach any additional written materials or other information that you think is relevant to your complaint to this form.

Signature and date required below.

\_\_\_\_\_  
Signature of Person Filing Complaint

\_\_\_\_\_  
Date