



August 15, 2023

Amy Wiatr-Rodriguez  
Director of Regional Operations  
Administration for Community Living  
Department of Health and Human Services  
330 C Street SW  
Washington, DC 20201

RE: RIN 0985-AA17

Dear Director Wiatr-Rodriguez:

On behalf of the Association of Assistive Technology Act Programs (ATAP), we are pleased to submit comments and recommendations to the Administration for Community Living (ACL), U.S. Department of Health and Human Services notice of proposed rulemaking (NPRM) to modernize the implementing regulations of the Older Americans Act of 1965 (OAA).

ATAP represents State and Territory Assistive Technology Act Programs formula funded under Section 4 of the 21<sup>st</sup> Century Assistive Technology (AT) Act of 2022. State and Territory AT Act programs operate in all 50 states, the District of Columbia, Puerto Rico and four territories and are available for persons with all types of disabilities, all ages, in all environments (education, employment, community living and information technology). State and Territory AT Programs are able to best match the proper assistive technology (AT) with individuals' needs, provide a device demonstration, loan a device, and provide training and support for the use of the device. Assistive technology and/or adaptive equipment can facilitate, support, and improve functionality so every individual with disability can obtain an education, gain and main employment and live independently in their community.

State and Territory AT Act Programs have invaluable expertise and knowledge regarding ways to assure and provide access to the skills and devices that the population of aging and disabled individuals need. As key stakeholders and experts in supporting and creating access to AT for individuals with disabilities who face the challenge of having “unmet needs” which may include access to assistive technology devices for people with disabilities, we urge ACL to update the regulations for the OAA consistent with the statute and with the AT Act which was reauthorized in December 2022.<sup>1</sup>

As Congress noted on February 28, 2023 in a resolution agreed to in the Senate<sup>2</sup>:

- In 2022, the Centers for Disease Control and Prevention reported that 1 in 4 individuals in the United States, or almost 61,000,000 individuals, has a disability;
- The Centers for Disease Control and Prevention reported that, among adults 65 years of age and older, 2 in 5 have a disability;
- Assistive technology enables individuals with disabilities and older adults to be included in their communities and in inclusive classrooms and workplaces;

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<sup>1</sup> P.L. 117-263, the 21<sup>st</sup> Century Assistive Technology Act as included in Title LIV of the *National Defense Authorization Act of 2023* (pages 866-895), at: <https://www.congress.gov/117/bills/hr/7776/BILLS-117hr7776enr.pdf>

<sup>2</sup> See: S. Res. 85, *Designating March 1, 2023 as “National Assistive Technology Awareness Day”* at: <https://www.congress.gov/bill/118th-congress/senate-resolution/85/text>

- Assistive technology devices and services are necessities, not luxury items, for millions of individuals with disabilities and older adults, without which they would be unable to live in their communities, access education, or obtain, retain, and advance gainful, competitive, and integrated employment;
- The availability of assistive technology in the workplace promotes economic self-sufficiency, enhances work participation, and is critical to the employment of individuals with disabilities and older adults;
- State assistive technology programs support a continuum of services<sup>3</sup> vital and necessary to the disabled population.

Therefore, as recognized and encouraged in both the OAA and the AT Act, direct partnership between Area Agency Authorities (AAA) and State AT Act Programs must be acknowledged and included in any updates to OAA regulations. To accomplish this in the NPRM, we offer the following recommendations:

I. **Clarify in the Introduction that Area Agency Authorities (AAA) are encouraged to partner with State Assistive Technology Act Programs** as made allowable and specifically referenced in both the Older Americans Act (P.L. 116-31) and the 21<sup>st</sup> Century Assistive Technology Act of 2022 (P.L. 117-81).

II. Add Definition(s): (in bold)

- **The term “assistive technology”, “assistive technology device”, and “assistive technology service” have the meanings given such terms in section 3 of the 21<sup>st</sup> Century Assistive Technology Act of 2022 (P.L. 117-81).**
- **The term “State assistive technology entity” means the agency, office, or other entity designated under subsection (c)(1) of section 4 of the 21<sup>st</sup> Century Assistive Technology Act of 2022 (P.L. 117-81) to carry out State activities under such section.**

**Rationale:** The regulations for the Older Americans Act must be updated to include key definitions relating to “assistive technology” and “State assistive technology entity” consistent with P.L. 116-131 and P.L. 117-81.

III. Edit (in bold)

§ 1321.65 Submission of an area plan and plan amendments to the State for approval.

(3) Assessment and evaluation of unmet need, such that each area agency shall submit objectively collected and statistically valid data with evaluative conclusions concerning the unmet need for supportive services, nutrition services, evidence-based disease prevention and health promotion, family caregiver support, and multipurpose senior centers. **Supportive services may include disseminating information and providing access to assistive technology devices through a State assistive technology entity.** The evaluations for each area agency shall consider all services in these categories regardless of the source of funding for the services;

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<sup>3</sup> See: P.L. 117-263, the 21<sup>st</sup> Century Assistive Technology Act as included in Title LIV of the National Defense Authorization Act of 2023 (pages 866-895), at: <https://www.congress.gov/117/bills/hr/7776/BILLS-117hr7776enr.pdf>

**Rationale:** Consistent with requirements of Sec. 306(a)(6)(I) and 306 (b)(3)<sup>4</sup> and the Administration for Community Living (ACL) State Plan Guidance<sup>5</sup>, the regulations must include a reference to ensure area plans include the potential unmet need(s) regarding providing supportive services that may include disseminating information and providing access to assistive technology devices through a State assistive technology entity.

As ACL knows, State and Territory AT Act programs are a viable and trusted partner that AAAs can rely upon to help ensure aging people with disabilities are provided critical information regarding access to assistive technology as included in the OAA.

ATAP appreciates the opportunity to comment. Please let me know if we can provide any additional information. I can be reached at (202) 344-5674 or [audrey.busch@ataporg.org](mailto:audrey.busch@ataporg.org).

Sincerely,



Audrey Busch  
Executive Director  
Association of Assistive Technology Act Programs (ATAP)

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<sup>4</sup> P.L. 116-131, Enacted March 25, 2020, at: <https://acl.gov/sites/default/files/about-acl/2020-04/Older%20Americans%20Act%20Op%201965%20as%20amended%20by%20Public%20Law%20116-131%20on%203-25-2020.pdf>

<sup>5</sup> See: State Unit on Aging Directors Letter #01-2021, Attachment B (pg. 34), Administration for Community Living, U.S. Department of Health and Human Services, (August 5, 2021), viewed at: [https://acl.gov/sites/default/files/about-acl/2021-08/State%20Plan%20Guidance\\_Plan%20Due%20Oct%202022%20-%20ACL%20SUA%20Directors%20Letter%20%2301-2021.pdf](https://acl.gov/sites/default/files/about-acl/2021-08/State%20Plan%20Guidance_Plan%20Due%20Oct%202022%20-%20ACL%20SUA%20Directors%20Letter%20%2301-2021.pdf)