

17—4.6(231) Dededesignation of area agency on aging.

4.6(1) *Dededesignation.* The department may, in its discretion, initiate action to dedesignate an area agency on aging for any of the following reasons:

a. Substantial violation of grant terms and conditions or requirements and standards set forth in federal and state law or rules promulgated by the department or other agencies having jurisdiction.

b. Inadequate performance of the responsibilities outlined in the Older Americans Act, Iowa Code chapter 231 or department rules or any other law or regulation governing administration, operation and reporting for area agencies on aging.

c. The area agency on aging has been unable or is unwilling to take timely remedial action to correct cited deficiencies within the given time frame established by the department.

d. A change or reduction in the number of area agencies on aging is mandated by state or federal law.

e. A change occurs in the designation of the planning and service area served by the area agency on aging.

4.6(2) *Process to dedesignate an area agency on aging.* The department's submission to the commission of a plan to dedesignate an existing area agency on aging shall be acted upon by the commission only after affected parties have been provided notice and an opportunity to be heard as required by the Older Americans Act.

a. Notice.

(1) Notice to existing area agency on aging. The department shall send by certified mail, return receipt requested, a written notice of intent to dedesignate an area agency on aging by mailing said notice to the affected area agency on aging's executive director and board chair. The written notice shall contain the reasons for the proposed dedesignation, the applicable state or federal law(s) or administrative rule(s), and the dedesignation process.

(2) Notice to other affected parties. The department shall provide notice of intent to dedesignate an existing area agency on aging to all other area agencies on aging by mailing notice to their executive directors and board chairs. The department shall also publish a notice in at least one newspaper of statewide circulation and one newspaper circulated in each county located within the affected planning and service area(s) to provide notice to affected parties, including older individuals, individuals with disabilities, service providers, and units of general purpose local government. Notice shall be provided through the department's website, www.aging.iowa.gov. The notice shall document the need to dedesignate an existing area agency on aging and provide a process for submitting written comments to the department for consideration by the commission.

b. Public hearing.

(1) The department shall hold at least one public hearing to obtain comments and provide information on the plan to dedesignate an existing area agency on aging within 90 days of providing notice pursuant to paragraph 4.6(2) "a."

(2) Information provided by the department at the public hearing shall include, but not be limited to, the proposed plan to dedesignate, the reasons for dedesignation, legal authority to dedesignate, identification of affected individuals or groups of individuals, and procedures for appeal.

(3) Instructions for providing written comments to the department regarding the proposed plan to dedesignate an existing area agency on aging shall be provided at the public hearing and shall be posted on the department's website, www.aging.iowa.gov.

4.6(3) *Review of comments.* The department shall review all public comments received and provide a summary for the commission's review.

4.6(4) *Department submission of proposed recommendation to the commission.* The department shall submit to the commission for consideration a proposed recommendation regarding the dedesignation of an existing area agency on aging.

4.6(5) *Commission approval or disapproval of proposed recommendation to dedesignate an area agency on aging.* The commission may, in its discretion, approve or disapprove the department's proposed recommendation to dedesignate an existing area agency on aging. If the commission disapproves the department's proposed recommendation, the department shall develop an alternate

recommendation for commission consideration after notice and an opportunity for public comment as provided in subrule 4.6(2). The commission's final decision shall be posted on the department's website, www.aging.iowa.gov. The commission's final decision is other agency action for the purposes of Iowa Code section 17A.19.

4.6(6) *Department action subsequent to dedesignation.* When an area agency on aging is dedesignated pursuant to this rule, the department shall:

- a.* Notify the area agency on aging in writing that it has been dedesignated pursuant to this rule;
- b.* Provide a written explanation of the grounds for dedesignation;
- c.* Provide written notice of the right to appeal dedesignation and the procedure to be used for appeal;
- d.* Notify the Administration on Aging in writing of the dedesignation; and
- e.* If necessary, implement a plan for continuity of services in the affected planning and service area(s).

4.6(7) *State appeal of commission decision.* A party aggrieved or adversely affected by the commission's final decision may seek judicial review in accordance with Iowa Code section 17A.19. Such party shall serve a copy of the petition for judicial review upon the Director, Department on Aging, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319-9025.

4.6(8) *Federal appeal of commission decision.* An adversely affected party may appeal, in writing, the commission's decision regarding dedesignation of an existing area agency on aging to the Assistant Secretary for Aging of the Administration on Aging, Washington, DC 20201, on the basis of the facts and merits of the matter that is the subject of the action or proceeding or on procedural grounds within 30 days of the commission's final decision. Written requests shall state: (1) the decision for which an appeal is being made, and (2) the legal name(s), address(es), telephone number(s), and email address(es) of the individual or entity requesting the appeal. A copy of this request shall also be mailed to the Director, Department on Aging, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319. All questions regarding the federal appeal process should be addressed to the Assistant Secretary for Aging at the address provided above.

4.6(9) *Official dedesignation.* Official dedesignation shall not occur until the final disposition of all appeals.

[ARC 9863B, IAB 11/30/11, effective 11/1/11]