



Tripartite Board Governance Resources and Tools

NASCSP Orientation for CSBG Administrators

February 24, 2015

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Agenda

- What law governs the board?
- What is the role of the tripartite board?
- What are some best practices for recruiting and selecting board members?
- How do we locate CAPLAW governance resources?

What Law Governs the Tripartite Board?

Law on Tripartite Boards

- Federal CSBG Act (42 U.S.C. § 9910)
- State CSBG statutes, regs, contracts
- For CAAs with Head Start programs – federal Head Start Act (42 U.S.C. § 9837(c)(1))
 - <https://eclkc.ohs.acf.hhs.gov/hslc/standards/law>

CSBG Act: Purposes and Goals

- To provide assistance to states and local communities, working through a network of community action agencies and other neighborhood-based organizations, for:
 - the ***reduction of poverty***,
 - the ***revitalization of low-income communities***,
and
 - the ***empowerment of low-income families and individuals*** in rural and urban areas ***to become fully self-sufficient***

CSBG Act: Purposes and Goals

- Accomplish this goal by:
 - Strengthening of ***community capabilities for planning and coordinating*** use of ***broad range of resources, responsive to local needs and conditions***
 - Organization of range of services related to needs of low-income families and individuals so that ***services have a measurable and potentially major impact***
 - Greater use of ***innovative and effective community-based approaches*** to attacking the causes and effects of poverty

CSBG Act: Purposes and Goals

- ***Maximum participation of residents*** of low-income communities
- ***Broadening the resource base of programs directed to the elimination of poverty*** so as to secure a more active role in the provision of services for:
 - Private, religious, charitable, and neighborhood-based organizations; and
 - Individual citizens, and business, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor

42 U.S.C. §§ 9901

Guidance on Tripartite Boards

- OCS IM 82 (guidance only, not binding)
 - www.acf.hhs.gov/programs/ocs/resource/im-no-82-tripartite-boards
- OCS IM 138 re: CSBG Organizational Standards
 - <http://www.acf.hhs.gov/programs/ocs/resource/csbg-im-138-state-establishment-of-organizational-standards-for-csbg-eligible-entities>



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Slide Title			Duration
Welcome			00:04
▶ CAPLAW Introduction ...			01:20
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Chapter 1 History, B...			00:27
Community Action Be...			04:24
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CSBG Act Purposes			01:35
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Compensation and Se...			00:27
Board Size			02:56

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Introduction to CSBG

CAPLAW TRAINING MODULE

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Compensation and Se...			03:12
Compensation and Se...			01:45
Compensation and Se...			00:27
Board Size			02:56

84 Minutes 40 Seconds Remaining

Training Agenda

1. History, Background and Law
2. Purposes and Use of Funds
3. Tripartite Boards
4. Other Requirements and Restrictions
5. State Plans
6. Allocation, Payment and Carryover
7. Fiscal Controls and Monitoring
8. Funding Reduction and Termination
9. New Eligible Entities
10. Complaints



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Board Size			02:56

79 Minutes 4 Seconds Remaining

History,
Background
and Law

Block Grants

What Is a Block Grant?

Federal government awards funds to state, which sub-grants funds to nonprofits or local governments

Amount of funds each state receives determined by a formula in authorizing statute

Subject to requirements of federal law that created the program (authorizing statute)

Federal authorizing statute may require states to incorporate federal "cross-cutting" requirements

States may, and often do, choose to incorporate "cross-cutting" requirements

Did You Know?

LIHEAP and TANF are two examples of block grants to states



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What Is the Role of the Tripartite Board?

CSBG Act: Role of Tripartite Board

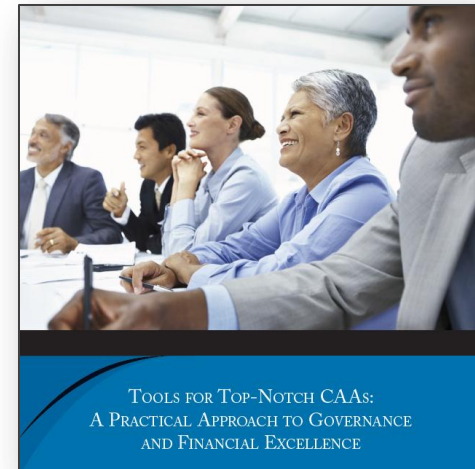
- Federal CSBG Act (42 U.S.C. § 9910)
 - Tripartite board administers CAA's CSBG program
 - Tripartite board must ***fully participate in development, planning, implementation and evaluation*** of CAA's CSBG program
- See OCS IM 82 and IM 138

Role of Tripartite Board

- For nonprofit CAAs – state nonprofit corporation act
- For public CAAs – delegation of authority from government entity

Nonprofit Board Fiduciary Duties

- **Care:** Reasonable person standard
- **Loyalty:** Faithfulness to CAA and its mission
 - Avoid conflicts of interest, self dealing
- **Obedience:** Obey the law, bylaws, contracts, board decisions, etc.



See page 9 more on
Fiduciary for Duties

Role of Tripartite Board – Nonprofit CAA

- Example from one state's nonprofit corporation act (Arizona):
 - All corporate powers shall be exercised by or under the authority of and the affairs of the corporation shall be managed under the direction of its board of directors, subject to any limitation set forth in the articles of incorporation (A.R.S § 10-3801)
 - Exercise duty of care and duty of loyalty in management of nonprofit (A.R.S § 10-3830)

Role of Tripartite Board – Public CAA

- Public CAA tripartite board's powers depend on authority delegated to it by local gov't
 - Should be more than just advisory
 - Should have power to:
 - Administer CSBG program
 - Provide meaningful input – especially from low-income sector – to gov't officials
 - Fully participate in development, planning, implementation, evaluation

Purely for Public CAAs

CAPLAW TRAINING MODULE

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Purely for Public CAAs |
Interactive Training Module



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Legal and Financial Resources for
Community Action

Outline Thumb Notes Search

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Composition and Sele...	01:31
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Tripartite Board Term...	01:13
Quiz: Chanters 3, 4 & 5	00:05

77 Minutes 50 Seconds Remaining



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Training Agenda

1. What is a Public CAA?
2. Governing Law
3. Tripartite Board Overview
4. Composition and Selection of Tripartite Board
5. Tripartite Board Size, Terms and Term Limits
6. Roles and Responsibilities of Tripartite Board
7. Powers of Tripartite Board
8. Engaging Tripartite Board
9. Role of Public CAA in Local Government
10. Maximizing and Leveraging Resources
11. Challenges Faced by Public CAAs

Purely for Public CAAs |
Interactive Training Module

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Development of the CSBG Program



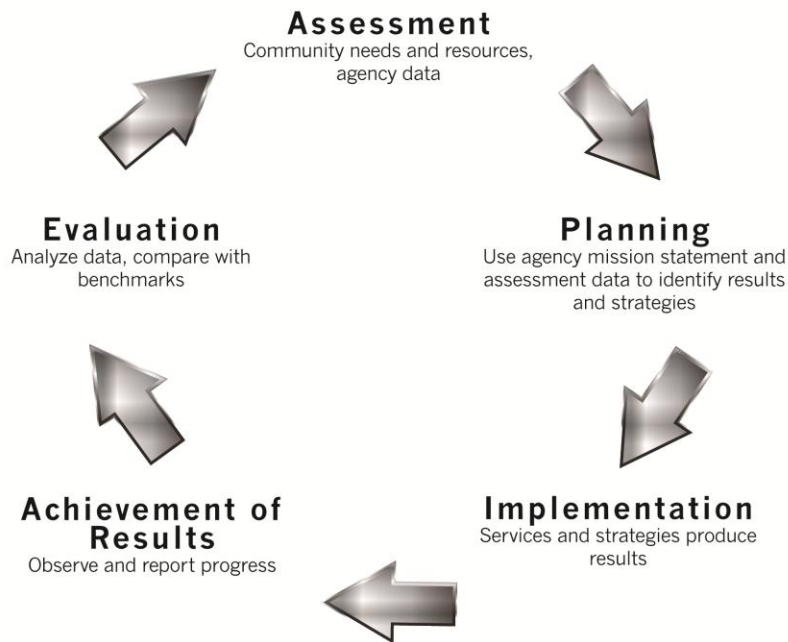
A tripartite board fully participates by:

- Acting as a key players in **needs assessments**
- Being a **primary source of information** and insight about the community served
 - Low-income representatives help with outreach and communication strategies
 - Elected officials make available government-sponsored studies of local area
 - Private sector representatives offer access to short-term and long-range services
- **Clarifying the mission** of the organization

Outline	Thumb	Notes	Search
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Board and ROMA Intersection Points

The Results Oriented Management and Accountability Cycle

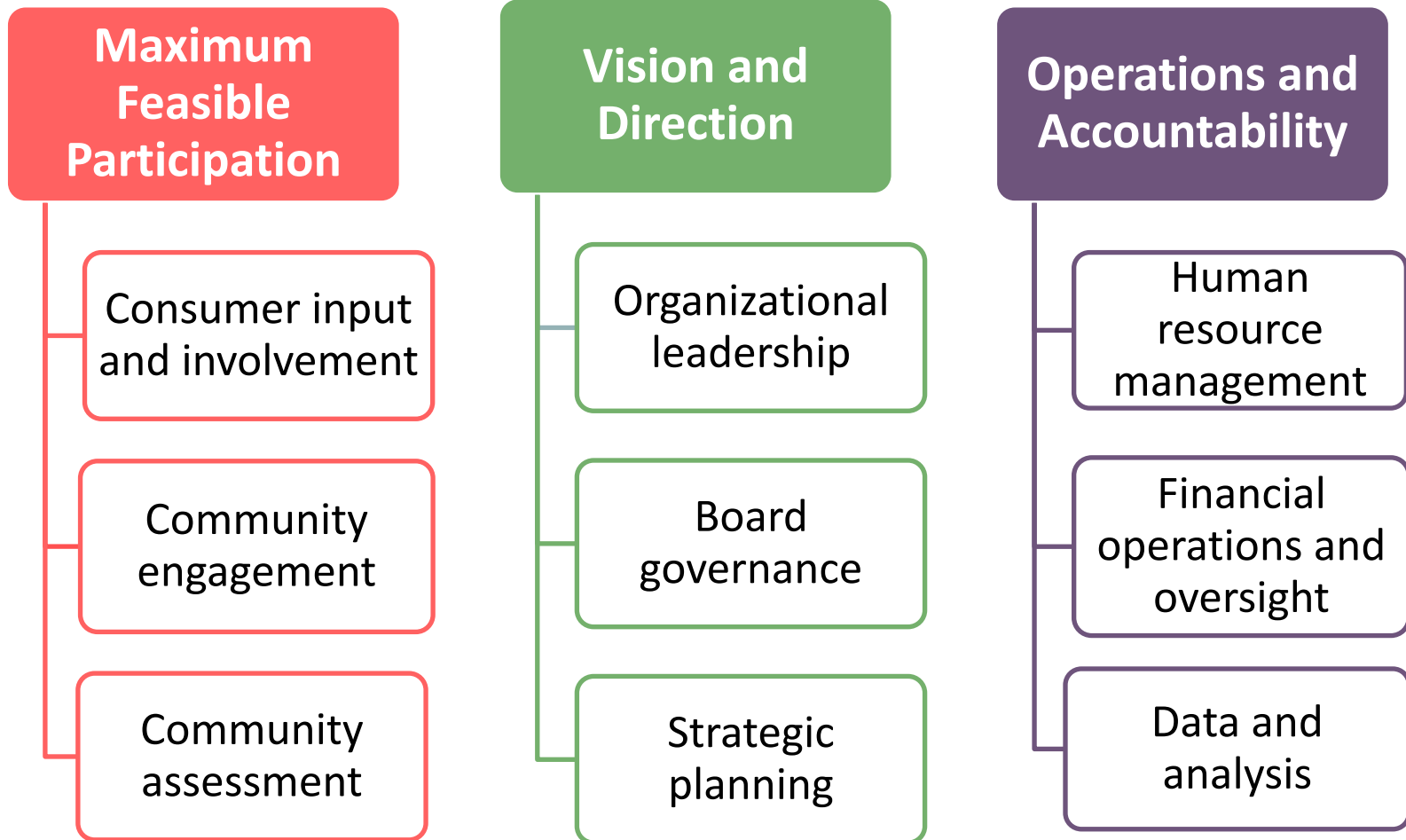


Private nonprofit entities and public organizations administer their CSBG program through tripartite boards that "fully participate in the development, planning, implementation, and evaluation of the program to serve low-income communities." ROMA helps us meet that responsibility.

The ROMA Cycle was developed by Julie Jakopic, Creating the Vision, and Barbara Mooney, Community Action Association of Pennsylvania, created "Planning for Results" in 2006 as a guide for a results oriented planning process. Initially for this document, they developed the ROMA Cycle to help contextualize the planning process within the full range of ROMA activities identified in IM 49

CSBG Organizational Standards

Organized into three thematic groups



Board Role – Tools for Top-Notch CAAs



TOOLS FOR TOP-NOTCH CAAs:
A PRACTICAL APPROACH TO GOVERNANCE
AND FINANCIAL EXCELLENCE

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Board Role – Tools for Top-Notch CAAs

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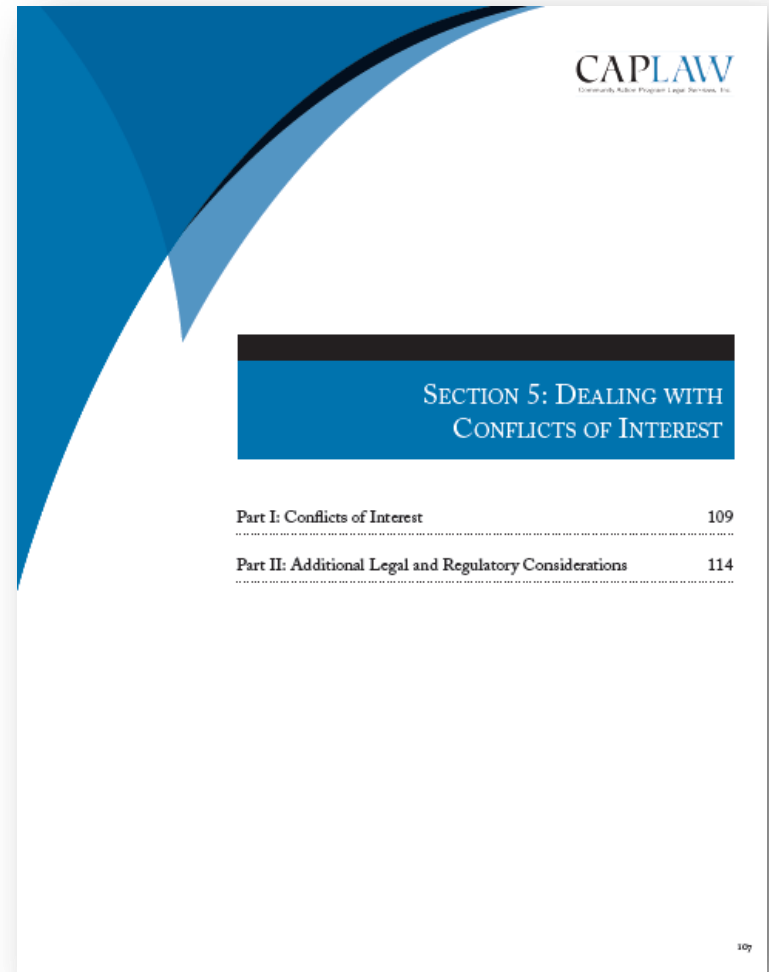
TOOLS FOR TOP-NOTCH CAAs: A PRACTICAL APPROACH TO GOVERNANCE AND FINANCIAL EXCELLENCE

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Conflict of Interest Policy

CSBG Org. Standard 5.6:

- Each board member has signed a conflict of interest policy (or, for public CAAs, a comparable local government document) within the past 2 years.
- Sample policies and archived webinar on CAPLAW's website.



The image shows the cover of a manual titled "SECTION 5: DEALING WITH CONFLICTS OF INTEREST" by CAPLAW. The cover features a blue and white design with a curved graphic element. The table of contents is as follows:

CAPLAW Community Action Program Legal Services, Inc.	
SECTION 5: DEALING WITH CONFLICTS OF INTEREST	
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Whistleblower Policy

CSBG Org. Standard 7.7:

- *Private:* The organization has a whistleblower policy that has been approved by the governing board.
- *Public:* The department provides a copy of any existing local government whistleblower policy to members of the tripartite board/advisory body at the time of orientation.
- Sample policies and archived webinar on CAPLAW's website.



The image shows the cover of a CAPLAW document titled "SECTION 6: ADOPTING A WHISTLEBLOWER POLICY". The cover features the CAPLAW logo in the top right corner, which includes the text "CAPLAW" and "Community Action Program Legal Services, Inc." below it. The title "SECTION 6: ADOPTING A WHISTLEBLOWER POLICY" is displayed in white text on a blue background. Below the title is a table of contents listing seven parts with their corresponding page numbers. The page number "121" is visible in the bottom right corner of the document cover.

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What Are Some Best Practices for Effectively Recruiting and Selecting Board Members?

Elements of Effective Recruitment

- Understanding the leadership needs of your organization
- Strategically seeking individuals who have the attributes you desire
- Making sure your mission is a good fit for their values and interests
- Presenting a clear outline of expectations
- Clarifying their commitment to these expectations

*From “Tapping into the Time, Talent and Treasure of the Tripartite Board,”
Presented by Lisa Brown, Director of Development & Community Relations Community
Action, Hillsboro, Oregon, archived copy available for download at
<http://caplaw.org/conferencesandtrainings/webinars.html#csbg>*

CAPLAW Sample CAA Board Composition Matrix April 2012

Board Members	Sector			Diversity	Skill/Experience/Expertise								Access/Connections						Years on Board	Term Exp.	Committee	Office							
	Public	Private	Low-Income	Examples: Racial, Ethnic, Disability, Age, etc.	P.R. Communications	Financial Planning/Management	Organizational Management	H.R. Management	Fundraising	Early childhood education & development	Attorney																		
1. Jane Doe		X		Hispanic				X		X																1	9/1/13	Personnel	Secretary
2.																													
3.																													
4.																													
5.																													

Board Selection Procedure

- Charge/create board development/governance committee to oversee selection process
- Recruit board members with financial expertise, community connections, fundraising capabilities, etc.
- Require applications
- Follow selection procedures in bylaws
 - If changes are needed, amend bylaws

The Rules CAAs Live By

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By Joel L. Kaleva, Esq.*

This toolkit is intended to guide Community Action Agencies (CAAs) in understanding and revising their existing bylaws. It is written primarily for private, nonprofit CAAs, however most of the principles discussed can also apply to public CAAs. Public CAAs should keep in mind, however, that they are not governed by the state nonprofit corporations laws discussed in this toolkit but instead by state laws governing municipalities.

An organization's bylaws should be treated as the operating manual for its board of directors. The bylaws set forth the everyday rules by which the organization is governed. Well drafted bylaws should clearly set forth the manner in which the board of directors is selected, meets, votes, and delegates its authority to others. Because these rules are directed at governance procedures, they are generally the same for all different types of nonprofit organizations, regardless of their mission or programs.

In order to keep its designation as a CAA and to receive Community Services Block Grant (CSBG) funding, a CAA must comply with the requirements of the federal CSBG Act, which requires that the organization be governed by a tripartite board. Because of the tripartite board structure required by the CSBG Act, CAAs must include a number of provisions in their bylaws not found in a typical nonprofit's bylaws.



When drafting or revising their bylaws, CAAs should be sure to review the CSBG Act's tripartite board requirements. (To view the codified version of the CSBG Act visit

www.access.gpo.gov/nacode/title42/chapter106.html;

see 42 U.S. Code section 9910 for the tripartite board requirements that apply to CAAs.) In addition, CAAs should check their state's CSBG law, regulations or other guidance issued by the state CSBG office, as these authorities often require CAAs to include certain provisions in their bylaws.

In March of 2005, the federal Office of Community Services (OCS) issued Information Memorandum No. 82 (IM 82) to provide OCS's interpretation of some of the CSBG Act's board requirements and recommendations on how CAAs can meet those requirements.

Throughout this toolkit, we will point out OCS's recommendations as they are pertinent to the subjects being covered. For a copy of IM 82, visit www.acf.dhhs.gov/programs/ocscsbg/documents/im82.pdf.

Note that IM 82 is not law or binding authority for CAAs or the state CSBG offices; some of its recommendations may conflict with state laws that apply to a specific CAA. Each state has its own statutes that apply to nonprofit organizations, and these can vary from state to state. Thus, it is important for each CAA to closely evaluate the special rules that apply to it to ensure that its bylaws comply with both federal and state law requirements.

* Joel L. Kaleva, Esq. is a partner in the Montreal, Minnesota office of Crowley, Haughey, Hansen, Toole and Dietrich, PLLP. Mr. Kaleva's practice focuses entirely on representing nonprofit organizations, including Community Action Agencies and other public charities, private foundations, and trade associations. Mr. Kaleva may be reached by phone at (406) 523-3600 or by e-mail at jkaleva@crowleylaw.com.

** This toolkit contains general information and is not intended as legal advice.

Bylaws/Governing Documents

- ***CSBG Org. Standard 5.3 [Private]:*** The organization's bylaws have been reviewed by an attorney within the past 5 years.
- ***CSBG Org. Standard 5.4:*** The organization documents that each board member has received a copy of the bylaws (for public CAAs – governing documents) within the past 2 years.

Board Selection Procedure

- Be sure board meets CSBG Act tripartite board requirements and, if applicable, Head Start requirements
- Have board members elected by full board (for nonprofit CAAs) or governing officials (for public CAAs) once chosen through appropriate selection process

Tripartite Boards – Composition and Selection

- Three sectors:
 - Exactly 1/3 public officials or their representatives
 - At least 1/3 low-income representatives
 - Remainder from major groups or interests in the community served
- ***CSBG Org. Standard 5.1***: The organization's governing board is structured in compliance with the CSBG Act

Tripartite Boards – Composition and Selection

- Board members are to be chosen by grantee
 - Must use democratic selection process for low-income board members
 - Public CAA – tripartite board can make recommendations to governing officials

Board Self-Training Tool

COMMUNITY SERVICES BLOCK GRANT



Training
tools
for
NONPROFIT
BOARDS

GOVERNANCE

Tripartite Board Composition
and Selection

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COMMUNITY SERVICES BLOCK GRANT



Training
tools
for
PUBLIC CAA
BOARDS

GOVERNANCE

Tripartite Board Composition
and Selection

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Introduction

This tool focuses on the CSBG requirements relating to tripartite board composition and selection and is divided into the following four parts, which may be completed separately or together:

1. General tripartite board composition and selection information
2. Public official sector
3. Low-income representative sector
4. Private sector



Part I. General Tripartite Board Composition and Selection Information

Learning Objectives for Part I

1.1 Know Brief History of CAA Tripartite Board

1.2 Recognize Laws and Guidance Relating to Tripartite Board Selection and Composition

1.3 Understand General Concepts Relating to Tripartite Board Selection and Composition

3

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Part I. General Tripartite Board Composition and Selection Information

Learning Objectives for Part I

1.2 Recognize Laws and Guidance Relating to Tripartite Board Selection and Composition

1.2 Recognize Laws and Guidance Relating to Tripartite Board Selection and Composition

Understanding the Relationship of CSBG Laws and Guidance Exercise

Number the items according to which one takes precedence over the other items.

- ___ Federal Office of Community Services Information Memorandum 82
- ___ State Community Service Block Grant (CSBG) statutes (if exist)
- ___ CAA bylaws
- ___ Federal CSBG Act
- ___ CAA Articles of Incorporation/Organization
- ___ State CSBG regulations (if exist)
- ___ CAA CSBG grant agreement with state

1.2 Recognize Laws and Guidance Relating to Tripartite Board Selection and Composition

Understanding the Relationship of CSBG Laws and Guidance Exercise

Number the items according to which one takes precedence over the other items.

- 7 Federal Office of Community Services Information Memorandum 82
- 2 State Community Service Block Grant (CSBG) statutes (if exist)
- 6 CAA bylaws
- 1 Federal CSBG Act
- 5 CAA Articles of Incorporation/Organization
- 3 State CSBG regulations (if exist)
- 4 CAA CSBG grant agreement with state

Public Sector

- Under federal law, no longer required to include or be chosen by “chief elected officials”
 - For nonprofit CAAs, best to specify in bylaws that CAA itself elects public official board members – but not specify which ones
 - For public CAAs, since governing officials of city/county often already have input (and in many cases, final say) on decisions affecting CAA, consider including other public officials on tripartite board

Public Sector

- CSBG Act says “holding office at time of selection”
 - OCS IM 82 recommends that public officials serve only while they are in office
- Good idea to have specific terms rather than permitting public officials to stay on board as long as they are in public office

Public Sector

- If elected officials not available, may include appointed
- Public official or representative must serve CAA's interests (especially for nonprofit CAAs)

Introduction

This tool focuses on the CSBG requirements relating to tripartite board composition and selection and is divided into the following four parts:

1. General tripartite board composition and selection information
2. **Public official sector** ← **We're here!**
3. Low-income representative sector
4. Private sector

Part II. Public Official Sector

Learning Objectives for Part II

2.1 Know Public Official Composition Requirements

2.2 Improve Public Official Selection

2.3 Understand Public Official Bylaws Provision

3

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2.1 Know Public Official Composition Requirements

Why does the CSBG Act
require public officials to
serve on the board?

2.1 Know Public Official Composition Requirements

- Facilitate awareness of and action on issues facing low-income people
- Foster partnership between local and state governments and CAAs in addressing issues

Part II. Public Official Sector

To Conclude:

- List 3 pieces of information that you learned after completing Part II of this training
- List what, if any, changes you would recommend in how the board functions

Low-Income Sector – Nonprofit CAAs

- Must be democratically selected to assure representative of low-income people in service area
- If chosen to represent a particular neighborhood, must live there

Low-Income Sector – Public CAAs

- Must be representative of low-income individuals and families in service area
- Must live in service area
- Must be able to participate actively in development, planning, implementation and evaluation of CSBG programs

Low-Income Sector Board Members

- Should represent current low-income residents, but don't need to be low-income themselves
 - CAA Best Practice: Should have at least some (if not all) low-income board members who are low-income themselves

Democratic Selection

- ***CSBG Org. Standard 5.2:*** The organization's governing board has written procedures that document a democratic selection process for low-income board members adequate to assure that they are representative of the low-income community.
- May be in bylaws or (unless state requires it to be in bylaws) a separate document referred to in the bylaws and approved by the board

Democratic Selection

- Possible democratic selection techniques include:
 - Election by ballot or at community meeting
 - Elected by or designated from elected leaders of low-income groups (e.g. Head Start Policy Council, neighborhood ass'n, public housing tenants' ass'n, community health center board, etc.)
- Should not be chosen simply by CAA board or nominating committee
- Should not be staff of another low-income service provider picked by CAA board or nominating committee or by executive director of other org.

Alternates

- For nonprofit CAAs in most states – no voting by proxy/alternates, instead permit alternates to:
 - Attend meetings and report to primary board member
 - Fill vacancies
- Public CAAs can permit alternates to vote when primary board member can't attend

Petitions for Board Representation

- CSBG Act: CAAs must establish procedures for low-income **individuals, a community organization, religious organization or representative of low-income individuals** that considers its organization or low-income individuals to be underrepresented on the board to petition for representation
- Good idea to include in bylaws (sample language in CAPLAW Bylaws Toolkit)

Board Size

- Look at board size and decide on right number of board members
 - Federal CSBG Act doesn't address board size
 - Some states' CSBG law and/or regs impose board size requirements

Board Members' Terms

- Federal CSBG Act does not address CAA board members' terms or term limits
- Bylaws should state board members' terms
 - If the bylaws are silent, state nonprofit corporation law may set a default term (e.g., 1 year)
- May provide for staggered terms
 - Good idea to have a mix of new and experienced board members
 - Terms can be different lengths for different sectors
- Three-year terms is a common term length for nonprofit board members

Term Limits

- If state law does not specify term limits, CAA board members may serve for any number of successive terms
 - Individual CAAs may decide to have term limits
 - Some CAAs permit board members who have reached their term limits to re-join the board after a break (e.g., 1 year)

Board Orientation and Training

- ***CSBG Org. Standard 5.7:*** The organization has a process to provide a structured orientation for board members within 6 months of being seated.
- ***CSBG Org. Standard 5.8:*** Board members have been provided with training on their duties and responsibilities within the past 2 years.

Removal of Board Members

- CAA Best Practice: Include strong removal provisions in bylaws and use them if necessary
- Specify whether removal can be without cause, or whether it must be for cause
 - If for cause, define or give example(s) of what cause is in bylaws
 - But use “including, but not limited to”
- Specify vote needed to remove board member in bylaws

Board Vacancies

- ***CSBG Org. Standard 5.5:*** Fill board vacancies as set out in bylaws
 - Specify in bylaws:
 - How vacancies in each sector will be filled
 - Term length of replacement director and how partial term counts towards term limits, if any
 - Have full board elect replacement board members once chosen through appropriate process

How Do We Locate CAPLAW Governance Resources?

On CAPLAW's Website

www.caplaws.org!

- **Online Training Modules:**

<http://www.caplaws.org/resources/trainingmodules.html>

- Introduction to CSBG
- Purely for Public CAAs

- **Training Tools for Nonprofit & Public CAA Boards:
Tripartite Board Composition and Selection**

<http://www.caplaws.org/resources/publications.html>

On CAPLAW's Website

[www.capl原因.org!](http://www.capl原因.org/)

- **Governance Resources:**

<http://www.capl原因.org/resources/bytopic/governance.html>

- Tools for Top Notch CAAs: A Practical Approach to Governance and Financial Excellence
- CAPLAW Bylaws Toolkit
- Governance Case Studies
- Link to Governance Checklists

On CAPLAW's Website

[www.capl原因.org!](http://www.capl原因.org/)

- **Self-Assessment Tools:**

<http://www.capl原因.org/resources/selfassessment.html>

- Sample Board Composition Matrix
- Board Composition/Selection Best Practices Checklist
- Board Procedures Best Practices Checklist
- Board Responsibilities Best Practices Checklist

- **Model Policies:**

<http://www.capl原因.org/resources/modelpolicies.html>

- Conflict of Interest
- Whistleblower and Complaint Resolution

On CAPLAW's Website

[www.capl原因.org!](http://www.capl原因.org/)

- **Selected Archived Webinars:**

<http://www.capl原因.org/conferencesandtrainings/webinars.html>

- Roadmap for Resolving CAA Conflicts of Interest
- Whistleblower Policies
- Do the Right Thing: Creating a Culture of Compliance and High Ethical Standards
- Tapping into the Time, Talent, and Treasure of the Tripartite Board

On CAPLAW's Website

[www.capl原因.org!](http://www.capl原因.org/)

- **Selected Additional Publications:**

- <http://www.capl原因.org/resources/publications.html>

- Exemplary Legal Practices and Policies Guidebook
 - Part I: Do the Right Thing: Creating a Culture of Compliance and High Ethical Standards
 - Part II: Working with Attorneys
 - Working Better Together: CAPLAW's Guide to Shared Services and Mergers

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