

Board Governance

June 20, 2023



w e l c o m e

Agenda

- Laws and Guidance
- What OCS Monitors
- State Interpretation and Implementation
- What States Should Monitor
- Wrap Up





Board Requirements

Federal CSBG Act

Section 67b(a)(1), (b)(1)(C), Tripartite Boards

- Tripartite board administers CAA's CSBG program
 - Except for public CAAs in cases where the state specifies another mechanism that assures decision-making and participation by low-income individuals
- The federal CSBG Act doesn't address board size
 - Some state CSBG laws/regs impose board size requirements
 - Most CAAs have between 15 and 36 board members

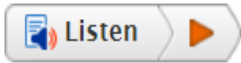
https://www.acf.hhs.gov/sites/default/files/documents/ocs/leg_title_icommunity_services_block_grant_act_10271998.pdf

HHS Block Grant Regulations

- **True** or **False** – HHS block grant regulations establish that the federal government will generally defer to a state’s interpretation of the federal CSBG Act.
 - **Apply to all block grants issued by the U.S. Department of Health and Human Services (HHS)**
 - **[45 C.F.R. Part 96](#)**
 - Subpart I specifically applies to CSBG funding

Information Memorandum 82

CSBG IM #82 Tripartite Boards



Publication Date: June 12, 2012 **Current as of:** May 28, 2019

Transmittal No. 82 **Date: March 23, 2005**

TO: State Community Services Block Grant Program Directors, Community Services Block Grant State Association Directors and Community Services Block Grant Eligible Entities

SUBJECT: Tripartite Boards

PURPOSE: This Information Memorandum addresses a number of policy questions that have arisen in recent years concerning the composition, role, and responsibilities of local community action agency tripartite boards. In addition, the Memorandum describes steps that may be taken by State CSBG lead agencies and State Community Action Associations to promote the continued viability and effectiveness of eligible entities through appropriately constituted and well-functioning tripartite boards.

This Information Memorandum is not intended to be definitive or binding on State or local agencies, but to serve as a guide on key issues.

<https://www.acf.hhs.gov/ocs/policy-guidance/csbg-im-82-tripartite-boards>



IM 82

Major Topics Areas

- Roles and Responsibilities
- Low-Income Individuals and Families
- Elected Officials or their Representatives
- Major Groups and Interests
- Member Appointment
- Term Limits
- Board Training
- Relationship between a tripartite board and the agency executive director

IM 82: Tripartite Board

What does it mean to fully participate?

Development Needs assessment, mission statement

Planning Strategic planning, annual progress

Implementation Agency programs, fiscal controls

Evaluation Outcomes over time

OCS Guidance

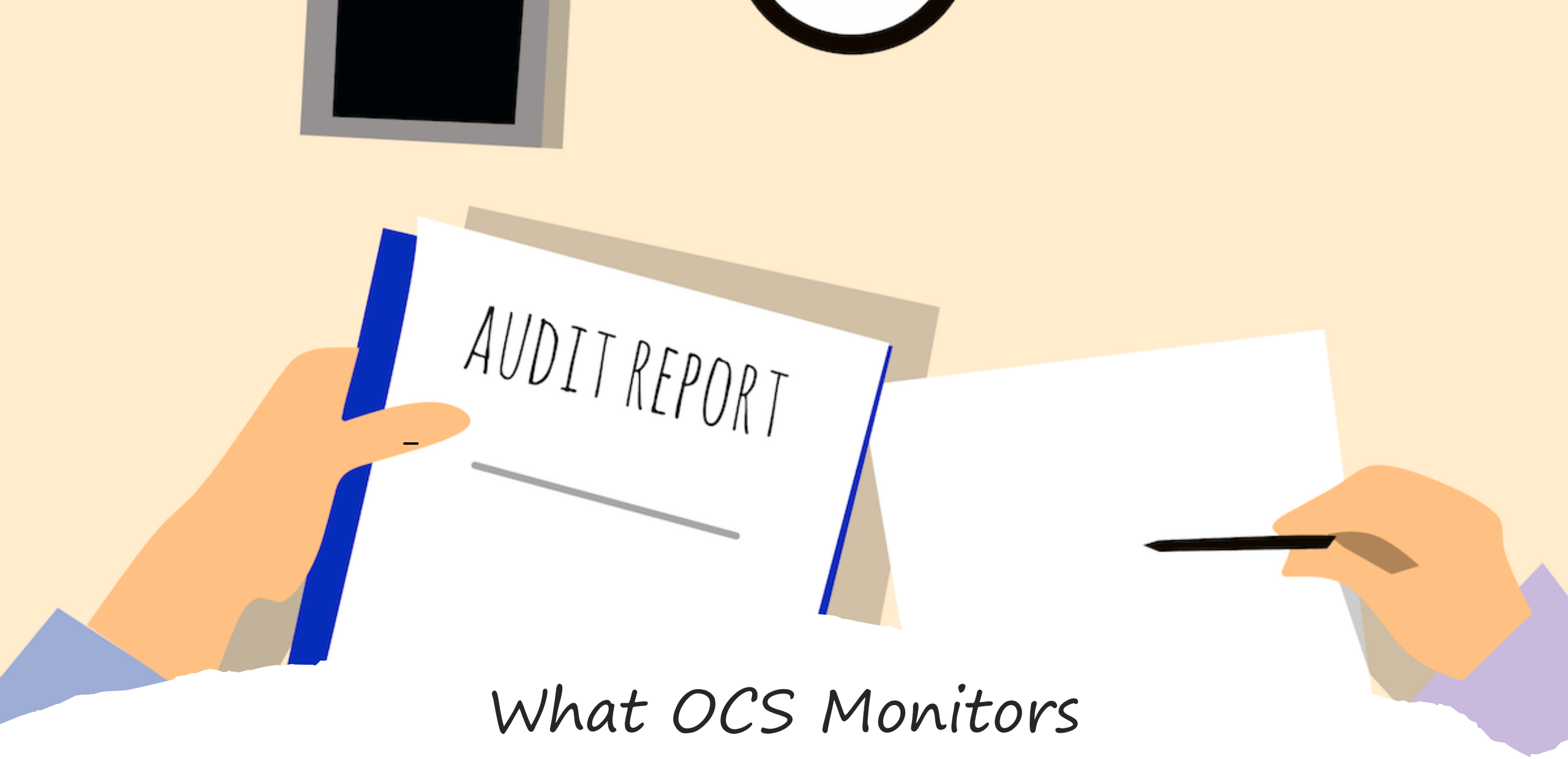
- **True or False** – Guidance issued by the federal Office of Community Services (OCS) in the form of Information Memoranda (IMs) are generally legally binding.
 - **OCS IM #82 provides guidance to tripartite boards regarding:**
 - Composition requirements
 - Role and responsibilities

CSBG Organizational Standards

COMMUNITY SERVICES BLOCK GRANT	U.S. Department of Health and Human Services Administration for Children and Families Office of Community Services Division of State Assistance 370 L'Enfant Promenade, S.W. Washington, D.C. 20447
Information Memorandum	
Transmittal No. 138	Date: January 26, 2015
TO:	State Community Services Block Grant (CSBG) Administrators, U. S. Territory CSBG Administrators, Eligible Entities, and State Community Action Associations
SUBJECT:	State Establishment of Organizational Standards for CSBG Eligible Entities under 678B of the CSBG Act, 42 U.S.C. § 9914

- IM 138 established org standards
 - 58 for Private CAAs
 - 50 for Public CAAs

This is the only legally binding IM.



What OCS Monitors

“SEC. 678B. MONITORING OF ELIGIBLE ENTITIES.

“(a) IN GENERAL.—In order to determine whether eligible entities meet the performance goals, administrative standards, financial management requirements, and other requirements of a State, the State shall conduct the following reviews of eligible entities:

“(1) A full onsite review of each such entity at least once during each 3-year period.

“(2) An onsite review of each newly designated entity immediately after the completion of the first year in which such entity receives funds through the community services block grant program.

“(3) Followup reviews including prompt return visits to eligible entities, and their programs, that fail to meet the goals, standards, and requirements established by the State.

“(4) Other reviews as appropriate, including reviews of entities with programs that have had other Federal, State, or local grants (other than assistance provided under this subtitle) terminated for cause.

“(b) REQUESTS.—The State may request training and technical assistance from the Secretary as needed to comply with the requirements of this section.

“(c) EVALUATIONS BY THE SECRETARY.—The Secretary shall conduct in several States in each fiscal year evaluations (including investigations) of the use of funds received by the States under this subtitle in order to evaluate compliance with the provisions of this subtitle, and especially with respect to compliance with section 676(b). The Secretary shall submit, to each State evaluated, a report containing the results of such evaluations, and recommendations of improvements designed to enhance the benefit and impact of the activities carried out with such funds for people in need. On receiving the report, the State shall submit to the Secretary a plan of action in response to the recommendations contained in the report. The results of the evaluations shall be submitted annually to the Chairperson of the Committee on Education and the Workforce of the House of Representatives and the Chairperson of the Committee on Labor and Human Resources of the Senate as part of the report submitted by the Secretary in accordance with section 678E(b)(2).

Provide the report to the State

Provide the report to the State

States are to submit an action plan in response to recommendations

Results of evaluations are submitted to Congress annually

CSBG Act

Section 678B(c) (42 U.S.C § 9914)

Areas of Review

Administrative

- States' Internal Procedures – documented policies and procedures
- Tripartite Boards

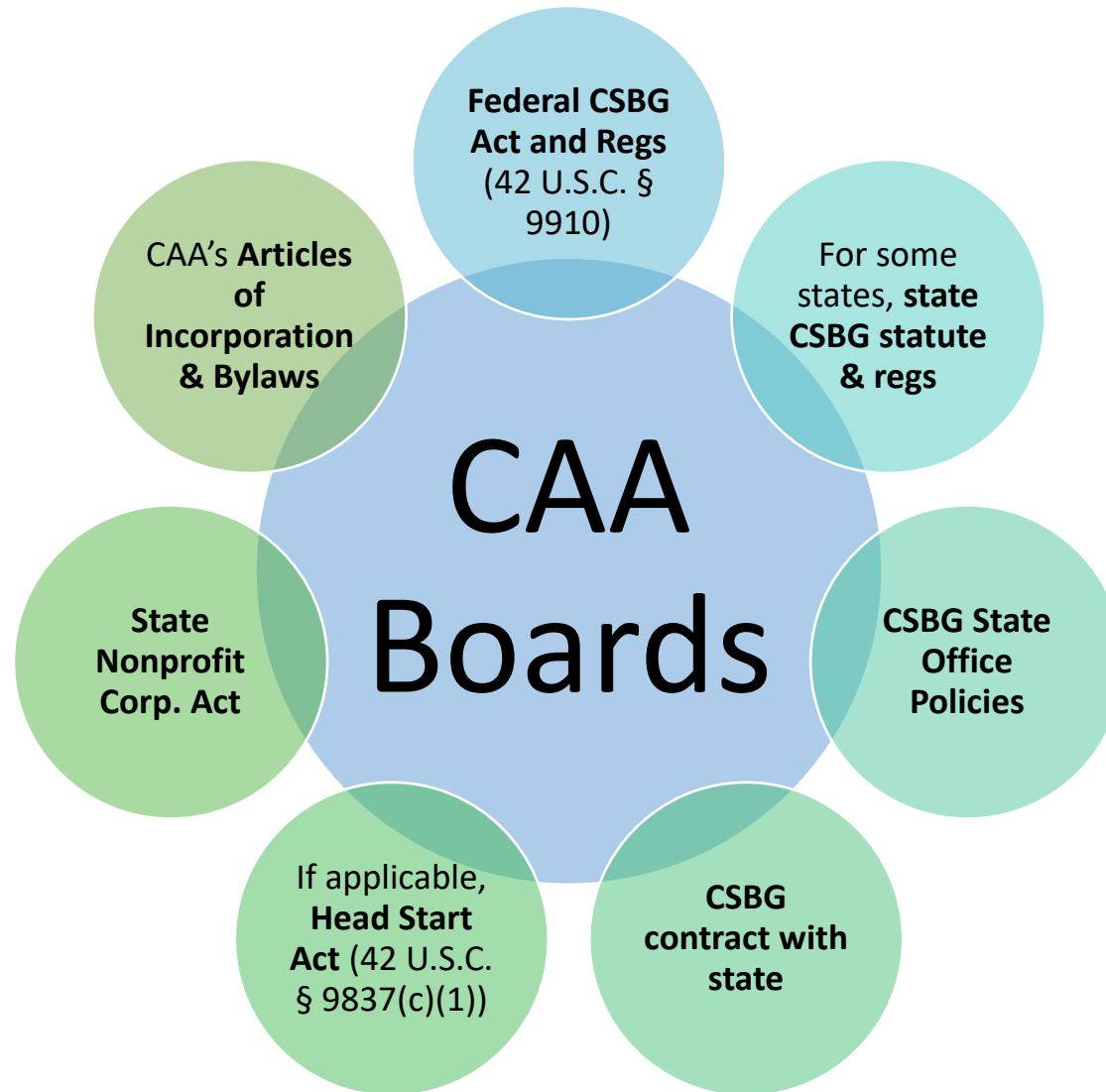
Programmatic

- State Monitoring of Eligible Entities
- Organizational Standards
- Application and Plan-Submission of State Plan and Assurances



State Interpretation & Implementation

Rules Governing Tripartite Boards



CSBG Grant Agreement/Contract

- True or **False** – CSBG grant agreements/contracts must reference the laws applicable to CAAs.
 - **Contract/agreement should include citations or references to the state and federal CSBG requirements that apply to the CAA**
 - Example, tripartite composition requirement as set forth in the federal and, if exists, state CSBG laws

Board Mechanics

Federal CSBG Act **is silent** as to:

- board size
- board terms limits
- vacancies
- resignation and removal

If these mechanics are not addressed by state laws and guidance a CAA's governing documents will control these items.

Board Size

- State CSBG laws and regulations often require the quorum to be fifty percent of the filled seats on the board (i.e., board members currently in office).
- A quorum is the minimum number of directors needed at a board meeting to take action on behalf of the organization.
- How a quorum is established in the bylaws impacts the board's ability to conduct business, as a board cannot take valid action without meeting quorum requirements.



Board Terms



**TERM
LIMITS
AHEAD**

If State Laws and guidance have nothing specific regarding term limits, then:

- A CAA bylaws/governing documents should address term limits, which can include
 - Different rules for different sectors
 - Staggered terms

If the bylaws are silent, state nonprofit laws may set a default term.

Vacancies

- States should have a policy regarding vacancies.
- State should have a method of tracking agency vacancies.
- Agencies should be communicating vacancies and their efforts to fill them.
- Vacancies should be filled as quickly as possible.
- Agencies' seat board replacements are once chosen through the appropriate process.





Alternates

- **Nonprofit CAAs** in most states – voting by proxy/alternates not allowed
- **Public CAAs** usually can permit alternates to vote when a primary board member can't attend

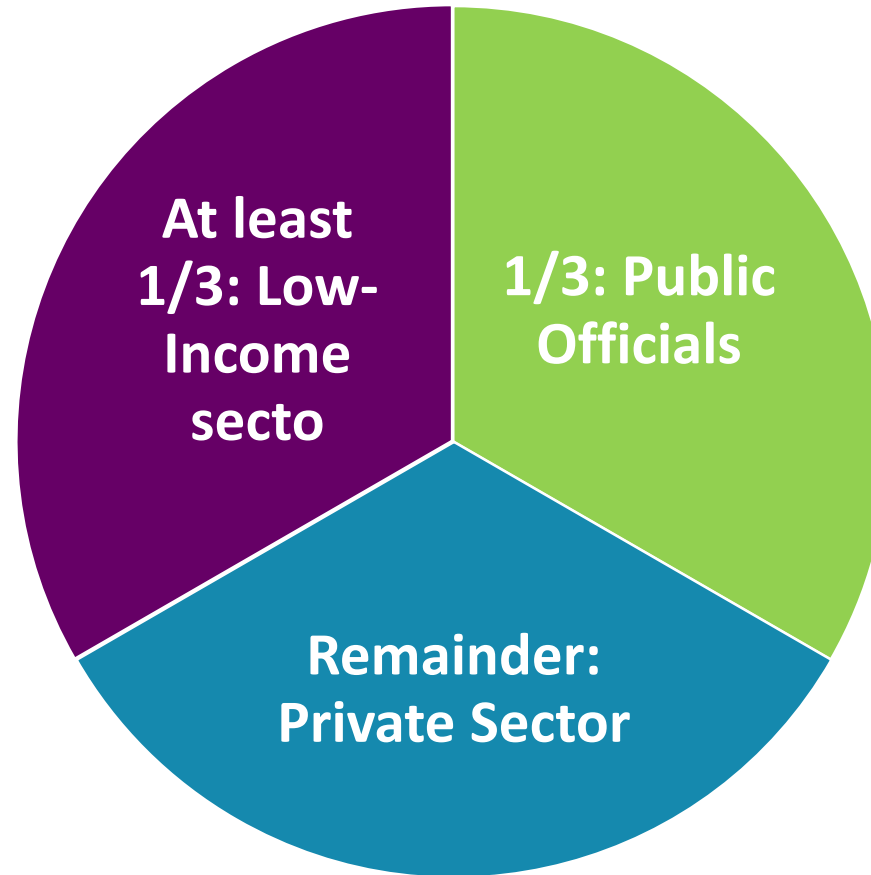
Resignation/ Removal

If State Laws and guidance have nothing specific regarding resignation or removal, then

- A CAA bylaws/governing documents should have a provision on resignations and removals.
 - Consider “with or without cause” – if defining “cause” CAAs should use “including, but not limited to” to allow for flexibility
 - Specify the vote needed to remove board members in bylaws



Tripartite Board Composition



CSBG [IM 82](#) provides critical information on Tripartite Board Composition

Composition and Selection

CSBG Act – Section 676B(b)(2), Tripartite Boards

Private Nonprofit

- The members of the board...**shall be selected by the entity**

Public Organizations

- A tripartite board, which shall have members **selected by the organization**

Public Sector Representatives

- Under federal law, no longer required to include or be chosen by “chief elected officials”
- CSBG Act says “holding office at the time of selection”
 - Many state CSBG laws say “currently holding public office”
 - OCS IM 82 recommends that public officials serve only while they are in office
- If elected officials are not available, may include appointed
- Elected or appointed official may select a representative (alternate) to serve in his/her place
- Public officials or representative must serve CAA’s interests (especially for private CAAs)

Low-Income Representatives



Should represent current low-income residents, but don't need to be low-income themselves

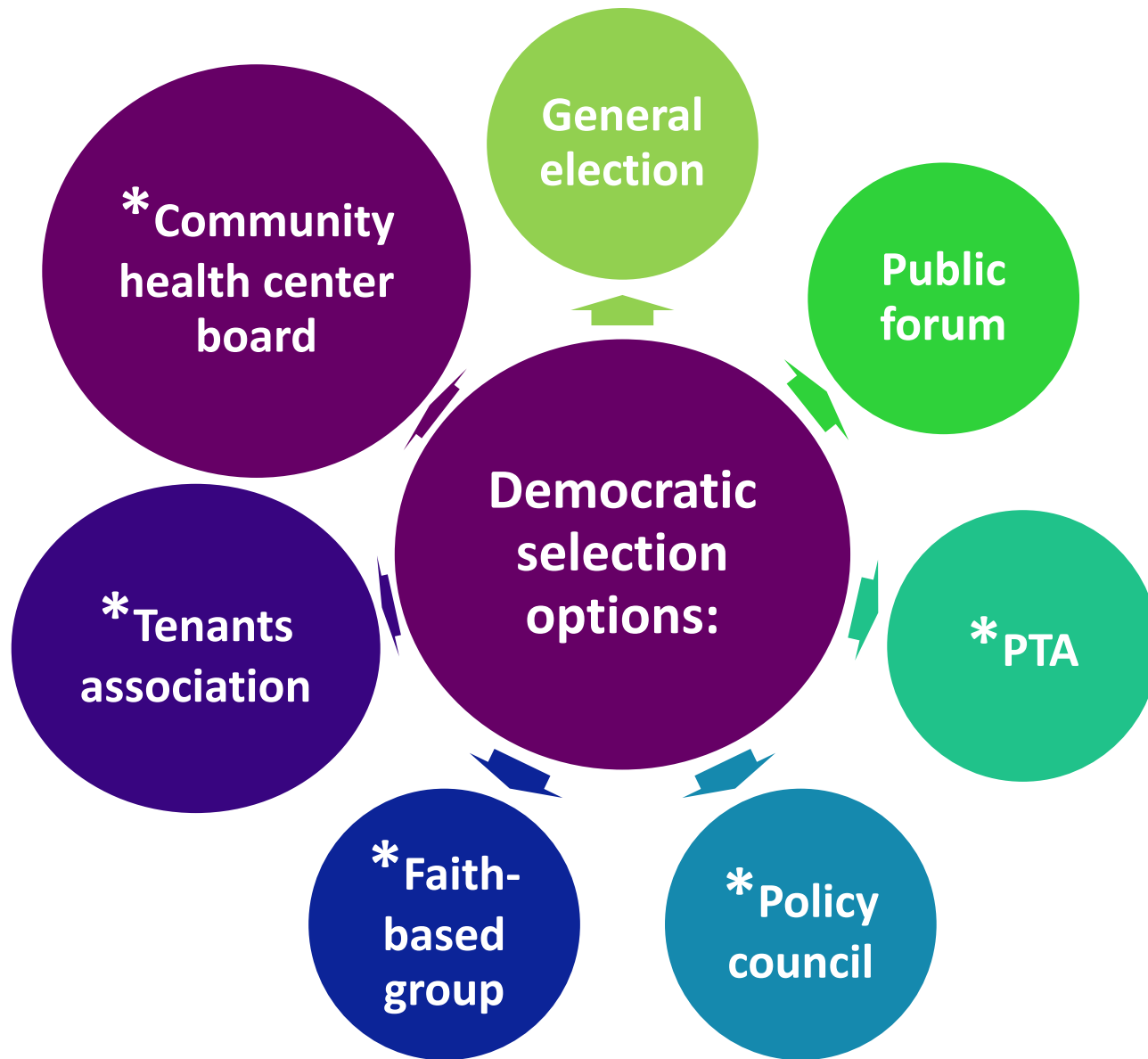


Must be democratically selected to assure that they are representative of low-income people in the service area



Must be able to participate actively in the development, planning, implementation, and evaluation of CSBG programs

Low-Income Sector



- * **Micro-democratic selection procedure:** Group predominately made up of low-income individuals may select someone from w/in the group to serve as the low-income rep.

– OCS IM 82

Private Sector Individuals or Groups

- Eligible entities may choose representatives from organizations or individuals



CSBG Organizational Standards

Vision and Direction

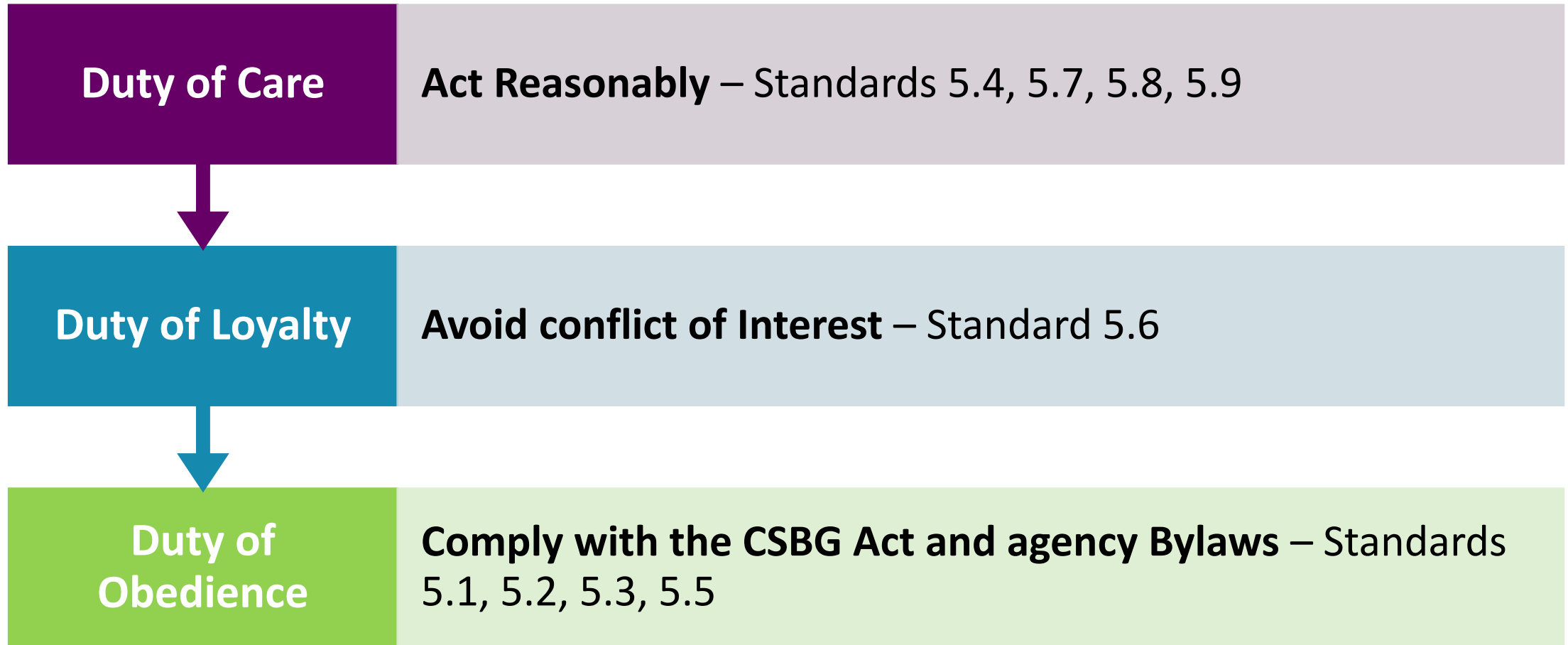
Organizational leadership

Board governance

Strategic planning

Category 5 Standards

Board's Fiduciary Duty



Category 5 Standards

Board Structure

Standard 5.1 - The org/dept's governing board is structured in compliance with the CSBG Act.

- 1/3: Public Officials
- Remainder: Private Sector
- At least 1/3: Low-Income sector

Democratic Selection Process

Standard 5.2 - The org/dept'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.

Category 5 Standards

Bylaws/Governing Documents

Standard 5.3: Nonprofit

- Org's bylaws have been reviewed by an attorney within the past 5 years (**not applicable to public CAA**).

Standard 5.4: Nonprofit/Public

- Org/dept. documents that each board member has received a copy of the bylaws within the past 2 years.

Standard 5.5: Nonprofit/Public

- Org/department board/advisory body meets in accordance with the frequency and quorum requirements and fills board vacancies as set out in its governing documents.

2. Bylaws

The bylaws of
important de

Agency Bylaws

States should review agency bylaws/
governance documents for information
about:

- Board member composition
- Meeting frequency, notice
- Officers
- Committees
- Votes, quorum
- And more. . .

Category 5 Standards

Conflict of Interest Policy

Standard 5.6: Nonprofit/Public

- Each board member has signed a conflict-of-interest policy/comparable local gov't doc. within the past 2 years.



The image shows a page from a document with a blue and white design. The top right corner features the CAPLAW logo with the tagline 'Community Action Program Legal Services, Inc.'. The main title is 'SECTION 5: DEALING WITH CONFLICTS OF INTEREST'. Below this, there is a table of contents with two entries: 'Part I: Conflicts of Interest' on page 109 and 'Part II: Additional Legal and Regulatory Considerations' on page 114. The page number '107' is visible in the bottom right corner.

CAPLAW Community Action Program Legal Services, Inc.	
SECTION 5: DEALING WITH CONFLICTS OF INTEREST	
Part I: Conflicts of Interest	109
Part II: Additional Legal and Regulatory Considerations	114
107	

Category 5 Standards

Board Orientation and Training

Standard 5.7: Nonprofit/Public

- Org./Dept. has a process to provide a structured orientation for governing/advisory board members within 6 months of being seated.

Standard 5.8: Nonprofit/Public

- Board members have been provided with training on their duties and responsibilities within the past 2 years.

Category 5 Standards

Strategic and Program Performance

Standard 5.9: Nonprofit/Public

- Org./Dept. board receives programmatic reports at each regular board meeting.

Beyond Category 5: Board Governance

Community
Assessment

Financial

Leadership

Strategic
Planning

Human
Resources

Data and
Analysis



What States Should Monitor

Some Thoughts about Oversight

Standard 3-year monitoring

Yearly monitoring of organizational standards

- It is the state's role and responsibility to ensure Eligible Entities are implementing the standards to improve organizational capacity

High-level reviews are performed for early prevention. This might consist of:

State Laws and Regulations



Due to the flexibility of the Block Grant environment, not all states have laws, regulations, or both. State administrators should familiarize themselves with their state's particular set of regulations, if any, regarding CSBG.



Most states have policies and procedures that govern the administration of CSBG and other human services work. State administrators should work to familiarize themselves with their state's policies and procedures regarding CSBG.



State contracts often incorporate by reference any CSBG Act requirements, OMB guidance, state laws and regulations, and policies and procedures. Monitoring procedures, tools, and documents then flow from these contract requirements.

POP

QUIZ

Knowledge Check

- An eligible entity has 12 seats on its board. Of them:
 - 5 individuals are representatives of individuals with low incomes;
 - 4 individuals are public officials;
 - 3 individuals are representatives of the private sector.
-
- Is this board in compliance with the CSBG Act?
 - A. Yes
 - B. No



Thank You!



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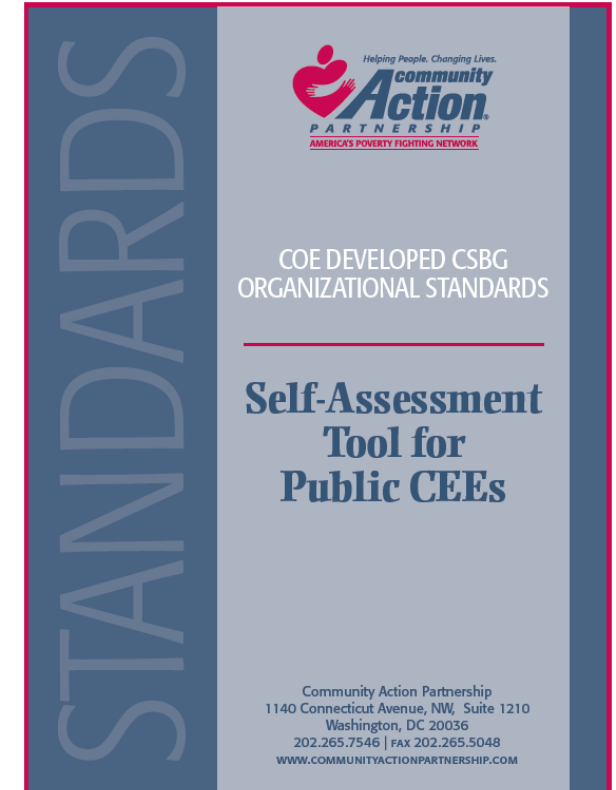
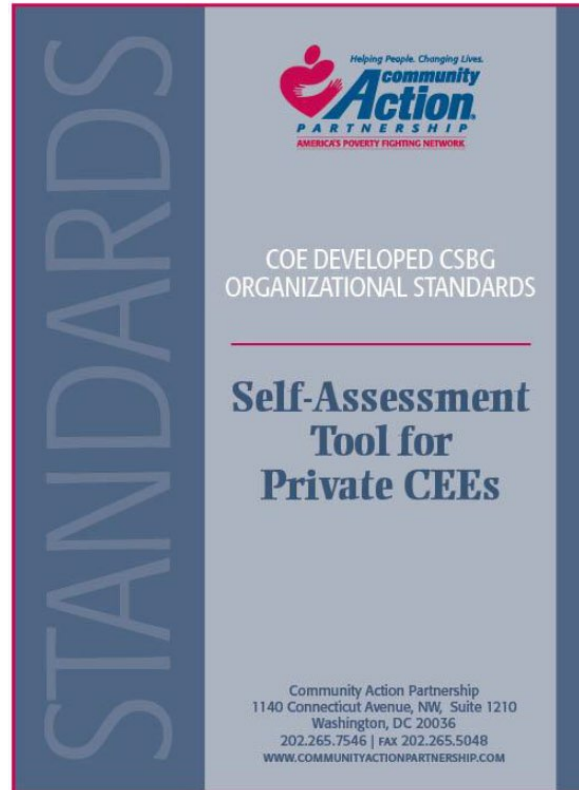
Phone: (202) 370-3653

Resources

- [OCS IM 82](#)
- [CAPLAW's Organizational Standards](#)
- [CAPLAW's Tools for Top-Notch CAAs: A Practical Approach to Governance and Financial Excellence](#)
- [CAPLAW's Dynamic Duo: A Guide to Enhancing the Board & Executive Director Partnership](#)
- [CAPLAW's Bylaws Toolkit: The Rules CAAs Live By](#)
- [CAPLAW's Bylaws Toolkit Webinar](#)
- [CAPLAW's Weatherproofing CAA Bylaws](#)
- [CAPLAW's Exemplary Legal Practices & Policies Guidebook \(Part I and II\)](#)
- [CAPLAW's Training Tools for Nonprofit and Public CAA Boards](#)
- [CAPLAW's Template Meeting Minutes and Index of Form Resolutions](#)
- [NCAP's Technical Assistance Guide: Category 5 Board Governance](#)

Org Standard Monitoring Tools

- Assessment Tools:
 - [State Assessment Template](#)
 - [Self-Assessment for Private CEEs](#)
 - [Self-Assessment Tool for Public CEEs](#)
- [COE Developed Standards Language](#)
- [COE Guidance](#)
- [CAPLAW Organizational Standards](#)



Please note, that not all suggested documents listed for each standard are required.