

Termination and Reduction of Funding

The State complies with the requirements of Section 678C of the Act requiring states to comply with certain requirements in the event that the State determines that an eligible entity fails to comply with the terms of an agreement or the State plan, to provide services under the community services block grant program or to meet appropriate standards, goals, and other requirements established by the State, including performance objectives. The State will follow Minnesota Administrative Rules 9571.0000 and the advice of counsel through the Minnesota Attorney General's Office to comply with this section.

Minnesota Administrative Rules

9571.0060 TERMINATION FOR CAUSE.

Subpart 1.

Cause.

A community action agency's funding, as well as its designation or recognition, will be terminated for cause. An Indian tribal government's or a migrant seasonal farmworker organization's funding will be terminated for cause. There may be multiple causes which apply. Termination for cause includes the following:

- A. actions threatening imminent danger to health or safety of members of the community;
- B. failure to involve low-income people in planning, oversight, and evaluation of programs and services;
- C. violation of the terms of the grant contract by the grantee including:
 - (1) failure to maintain financial procedures, reports, and audits according to part 9571.0140, subparts 1 and 2;
 - (2) failure to maintain recognition according to part 9571.0040, subpart 3; and
 - (3) failure to follow the requirements of federal and state laws;
- D. failure to remedy a defect after withholding or funding termination as provided in part 9571.0090, subparts 2 and 4; or
- E. denial of an application as provided in part 9571.0150, subpart 5.

Subp. 2.

Termination by governing body of community action agency designation.

A governing body may terminate a community action agency's designation for cause under subpart 1, item A or B.

A. The governing body must follow the steps in subitems (1) to (4):

- (1) adopt termination as the official action;
- (2) notify the department of its intent to terminate the community action agency's designation;
- (3) serve notice of termination upon the community action agency to be terminated and provide a copy to the department. The notice of termination must:
 - (a) explain the cause for termination;
 - (b) describe how the community action agency's funding may be affected; and
 - (c) provide a description of the community action agency's appeal rights according to subpart 5; and
- (4) prepare a transition plan for phasing out currently provided services and for substituting services in the interim until a successor community action agency is recognized. The transition plan must be provided to the department no later than the close of the contested case hearing on the appeal of the terminated community action agency or, if no hearing is held, filing with the department the notice of intent to designate a successor community action agency. The department must approve the plan as well as the interim community action agency providing community action program services.

B. The department will notify low-income households of the termination. Upon request from the department, the community action agency must provide its current list or lists of identified low-income households to the department. Identified low-income households are those specified on the community action agency's list or lists of clients.

C. If a community action agency's designation is terminated and the community action agency's appeal rights have also been exhausted, the department must terminate funding. Where the department intervenes as a party in a contested case concerning termination of designation, funding by the department may be immediately terminated.

Subp. 3.

Termination by department of community action agency funding or recognition.

The department may terminate for cause a community action agency's funding or recognition or both under subpart 1.

A. The department may terminate all or part of current or future funding for a community action agency. If the department terminates all future funding, it must also terminate a community action agency's recognition. If the department terminates a community action agency's recognition it must also terminate funding.

B. If the department decides to terminate a community action agency's funding or recognition, it will serve notice of termination upon the community action agency to be terminated and provide a copy to the governing body. The notice of termination must:

- (1) explain the cause for termination;
- (2) describe how the funding may be affected; and
- (3) provide a description of the community action agency's appeal rights according to subpart 5.

C. The department will notify identified low-income households of the termination. Upon request from the department, the community action agency must provide its current list or lists of identified low-income households to the department. Identified low-income households are those specified on the community action agency's list or lists of clients.

Subp. 4.

Termination by department of Indian tribal government or migrant and seasonal farmworker organization funding.

The department may terminate for cause an Indian tribal government's or migrant and seasonal farmworker organization's funding under subpart 1. The department may terminate all or part of current or future funding for an Indian tribal government or migrant and seasonal farmworker organization.

A. If the department decides to terminate an Indian tribal government's or migrant and seasonal farmworker organization's funding, it will serve notice of termination upon the Indian tribal government or migrant and seasonal farmworker organization to be terminated and provide a copy to the tribal council or the migrant and seasonal farmworker organization's board of directors. The notice of termination must:

- (1) explain the cause of termination;
- (2) describe how the funding may be affected; and

(3) provide a description of the Indian tribal government's or migrant and seasonal farmworker organization's appeal rights according to subpart 5.

B. The department will notify identified low-income households of the termination. Upon request from the department, the Indian tribal government or migrant and seasonal farmworker organization must provide its current list or lists of identified low-income households to the department. Identified low-income households are those specified on the Indian tribal government's or migrant and seasonal farmworker organization's list or lists of clients.

Subp. 5.

Appeal procedure.

If, after receipt of the notice of termination, a grantee is aggrieved, the grantee may request a contested case hearing from the department within 30 calendar days of the receipt of the notice. If the grantee's request for a contested case hearing is not received by the department during the 30-day period the grantee loses its right of appeal under this subpart. The hearing will be initiated and conducted according to parts 1400.8505 to 1400.8612 unless the grantee objects within ten business days. If the grantee objects, the hearing will be conducted according to parts 1400.5010 to 1400.8401. The request for a contested case hearing before an administrative law judge must be in writing. As provided for in part 1400.6200 or 1400.8570, the department will have the right to intervene as a party in a contested case hearing on termination of designation by a governing body.

Subp. 6.

Federal appeal rights.

Federal appeal rights may also exist for an aggrieved grantee under the Community Services Block Grant Act, United States Code, title 42, chapter 106, section 9915, subsection (b).

Subp. 7.

Successor.

If a community action agency's designation or recognition is terminated, the governing body will follow the priority guidelines in part 9571.0050, subpart 2, and the procedure in part 9571.0030 to designate a successor.

Subp. 8.

Costs.

Only costs directly attributable to the contested case hearing process in subpart 5 are the responsibility of the department.

9571.0050 CESSATION AND CHANGE OF DESIGNATION.

Subp. 2.

Priority among possible designees.

A governing body may choose a designee under this part, in descending order of priority, by:

A. requesting an existing community action agency that is located and is providing services in a contiguous area to expand its program operations into the service area;

B. requesting an existing community action agency closest to the service area or an existing community action agency within reasonable proximity to the service area to expand its program operations into the service area, if no existing community action agency in a contiguous area agrees to expand its operations; and

C. nominating any entity eligible or potentially eligible to be designated under federal law and regulations and to be recognized under part 9571.0040, when no community action agency accepts the request to operate in the service area.

9571.0030 DESIGNATION OF COMMUNITY ACTION AGENCIES.

Subpart 1.

Authority to designate.

The designation of a community action agency must be made by the political subdivision or combination of political subdivisions having jurisdiction over the entire area to be served. A designation must be made by the governing body of a political subdivision whose boundaries are at least coextensive with the proposed service area. The power to designate may not be delegated.

Subp. 2.

Notice and documents.

Before a designee may be designated as a community action agency by a political subdivision, the governing body of the political subdivision having the requisite authority must prepare and file with the department a notice of intent to designate and eligibility documents applicable to the designee. The notice of intent to designate must state how

the designee meets the requirements for an eligible entity established under the Community Services Block Grant Act. Eligibility documents are the following:

- A. evidence of designee's incorporation or proposed efforts toward incorporation, if applicable;
- B. evidence of tax exempt status or proposed efforts toward achieving tax exempt status, if applicable;
- C. assurance of compliance with the act, including requirements for the composition of the designee's existing or proposed board of directors;
- D. a statement that describes the proposed area to be served; and
- E. a proposed mission statement.

Subp. 3.

Notice of public hearing.

After the notice of intent to designate and the eligibility documents have been filed with the department, the governing body must hold a public hearing on the proposed designation. Notice of the hearing must be given according to items A to D.

A. At least 30 calendar days before the hearing date, the governing body must send a copy of the notice of intent to designate and information on the date, time, location, and subject matter of the public hearing to all local units of government within the designee's intended service area. During the 30 days before the hearing, the affected local units of government will have an opportunity to respond in writing to the proposed designation. All comments received will be included in the official record of the hearing.

B. During the 30-day period and at least ten calendar days before the hearing, the governing body must also publish a notice of public hearing in a daily newspaper of general circulation at the county seat of each county in the designee's proposed service area. The published notice must describe the time, date, location, and subject matter of the public hearing.

C. The governing body must inform the department of the public hearing at least 30 calendar days before the hearing date.

D. Within the 30-day period and at least ten calendar days before the public hearing, the department must mail notice of the public hearing to all low-income households identified in the proposed service area. This mailed notice must contain the date, time, location, and subject matter of the public hearing. Identified low-income households are those specified on the previous community action agency's list or lists of clients.

Subp. 4.

Public hearing.

A public hearing must be held 30 calendar days before designation may occur. If the area to be served by the designee includes more than one county, a public hearing in conformity with this part must be held in each county to be served.

Subp. 5.

Hearing procedure.

The governing body will appoint a presiding officer to conduct the public hearing. The governing body, however, may not appoint one of its current members as the presiding officer. The presiding officer will not have a vested interest in the outcome of the proposed designation and will ensure that all persons involved in the hearing are treated fairly and impartially. At the public hearing, the representative of the designee and a representative of the governing body will make an affirmative presentation of facts establishing the designee's qualifications, expertise, and experience in providing community action program services to low-income people. Furthermore, the designee's representative will describe the mission of the community action program, the focus and direction of proposed services, and the goals for outreach to and participation by low-income people. The designee may rely upon facts presented by others on the record during the hearing to support its proposed designation. At the hearing, any interested person will be given the opportunity to present testimony and to ask questions of the designee's representative and of the governing body's representative. Furthermore, any interested party may submit written comments or exhibits.

Subp. 6.

Official record.

An official record of the hearing consisting of an electronic recording and minutes of the proceedings must be kept. The official record must also include all testimony, written comments, and exhibits received pertaining to the proposed designation. The hearing record must remain open to receive written comments and exhibits for 20 calendar days following the date of hearing.

Subp. 7.

Official resolution.

Once the official record of the public hearing is received and 30 calendar days have passed from the date of the hearing, the governing body may act to designate the designee as a community action agency. The governing body must pass a resolution designating the designee as a community action agency if after review of the official record the governing body finds that:

- A. the opinion of the community was fairly and impartially expressed;
- B. the opinion of low-income people in particular was actively encouraged, representatively sampled, and fairly expressed during the whole process;
- C. the designee established the qualifications, expertise, and experience necessary to be an effective community action agency; and
- D. the designee's proposed mission, services, and goals were supported by testimony and written comments received as a result of the public hearing process.

Subp. 8.

Review by department.

Before provisional recognition may occur in part 9571.0040, subpart 1, the governing body must have submitted to the department for review copies of the following documents:

- A. eligibility documents required in subpart 2;
- B. official resolution of the governing body designating the designee;
- C. notices of public hearing and a list of all publications and dates of publication of notices of hearing;
- D. list of all local units of government sent copies of the notice of intent to designate and the notice of public hearing, including any responses received;
- E. affidavit of service of the notice of public hearing upon low-income households identified in the service area; and
- F. official record of the hearing.

Subp. 9.

Costs.

Costs attributable to the designation process, including costs associated with public hearings other than contested case hearings, are the responsibility of the governing body.