



Mastering the A-B-CSBGs

Tripartite Board Selection and Composition




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Agenda



- Laws and guidance
- Public sector
- Consumer sector
- Private sector
- A few board mechanics

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Laws and Guidance

Tripartite Boards



- Federal Community Services Block Grant (CSBG) Act
 - Section 672, *et. seq.* (42 U.S.C. § 9901 *et. seq.*)
- OCS Information Memoranda (IM) 82: Tripartite Boards
- State CSBG laws and guidance
 - CSBG Organizational Standards (IM 138)
- State nonprofit laws (**nonprofit CAAs**) or local laws (**public CAAs**)
- CAA organizational documents

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Federal CSBG Act

Section 676B(a)(1), (b)(1)(C), Tripartite Boards



- A tripartite board must **fully participate in the development, planning, implementation, and evaluation of CSBG-funded programs.**

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IM 82

Tripartite Boards



- 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

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IM 82

Tripartite Boards



- Non-binding guidance
- Sector-specific guidance
- Term limits
- Training
- Conflicts of interest
- Role of board and Executive Director
- State discretion

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Role + Responsibilities

CAPLAW Resources



New Opportunities, Inc. and CT Food 4 Thought

A CAPLAW social enterprise case study

Social Enterprise:
CT Food 4 Thought: A hydroponic farm growing lettuce, basil, and arugula

Location:
Stonington, CT

Year Founded:
New Opportunities: 1964
Food 4 Thought: 2018

Type of CAA:
vol., non-profit

Service Area:
single south of rural, northeastern Connecticut

AA Programs:
programs including early childhood nutrition, case management and benefits assistance, emergency shelter, supportive housing, mental healthcare, job skills training, organic food sales, diaper banks, food pantry, food needs, and in-home services.

SECTION 2: IMPROVING A CAA'S FINANCIAL CAPACITY

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Board Roles & Responsibilities: Public Community Action Agencies


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Tripartite Board



- Integrates knowledge and perspectives of communities served
- Encourages leadership and advocacy
- Facilitates access to resources, connections, and capital

At least 1/3: Consumers

1/3: Public Officials

Remainder: Private Individuals/Groups

- Encourages awareness of community needs
- Promotes action by local governments
- Facilitates coordination and partnership with public agencies

All sectors increase engagement with community and agency credibility

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CSBG Act

Section 676B(b)(2), Tripartite Boards



- A state may designate an alternative mechanism by which **public CAAs** assure decision-making and participation by low-income individuals

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CSBG Act

Section 676B(b)(2), Tripartite Boards



- (a) Private nonprofit entities
- (2) SELECTION AND COMPOSITION OF BOARD.—The members of the board...**shall be selected by the entity** and the board shall be composed so as to assure that—
- (b) Public Organization. . .the entity shall administer the community services block grant program through— (1) a tripartite board, which shall have members **selected by the organization**

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Public Sector

Section 676B(a)(2)(A), Tripartite Boards



1/3 of the members of the board are ***elected public officials, holding office on the date of selection***, or their ***representatives***, except that if the number of such elected officials reasonably available and willing to serve on the board is less than 1/3 of the membership of the board, membership on the board of ***appointive public officials or their representatives*** may be counted in meeting such 1/3 requirement;

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Public Sector

Section 676B(a)(2)(A), Tripartite Boards



- Elected public official must hold office on date of selection
 - IM 82 recommends that officials (or their representatives) should serve only while in office (or when re-designated by those in office)
 - **Note:** State laws may require officials be in office for full board term
- Appointed officials may serve if elected aren't available
 - Can state and local government employees serve as appointed officials?

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Public Sector

Section 676B(a)(2)(A), Tripartite Boards



- Elected and appointed officials may designate representatives
 - **Recommendation:** representative serve as the board member, not as a “stand in” for the official
 - **Note:** if state law silent, may require board approval for public official representatives in bylaws

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Public Sector

CAPLAW Resource



CAPLAW FAQ

A series of common legal questions and answers for the CAA network

Working with an Elected Public Official's Representative on the Tripartite Board

By Allison M. Huff, Esq.
September 2018

Elected public officials serve a crucial role on a Community Action Agency's (CAA) tripartite board. Not only do they raise awareness of poverty in the community and at various levels of government, they are also integral in fostering close coordination between local public agencies and Community Action efforts. Recognizing the often overwhelming demands elected public officials regularly face, the federal Community Services Block Grant (CSBG) Act gives a public official invited to serve on the tripartite board the option to have a representative serve in his or her place. This FAQ addresses a variety of questions received by CAPLAW about the selection and management of representatives serving in place of elected public officials on tripartite boards. The answers to these questions often depend on the requirements in a CAA's bylaws. While this FAQ discusses the federal CSBG Act's requirements and offers recommended practices, CAAs should note that they must continue to follow their bylaws as currently written until they are amended pursuant to the applicable bylaws provisions and/or state or local laws.

1. What legal requirements apply to how representatives of elected public officials are selected and managed?
2. Can a representative serve as an alternate or proxy rather than in place of the elected public official?
3. Who may serve as a representative of an elected public official?
4. Is a tripartite board required to accept an elected public official's choice for a representative?
5. What if an elected public official delays in appointing a representative to serve in his or her place?
6. If an elected public official is no longer in office, can the representative continue to serve on the board?
7. Can a representative of an elected public official be unilaterally removed by the elected public official?
8. What happens when a representative of an elected public official is no longer able to serve?

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Consumer Sector - Nonprofits

Section 676B(a)(2)(B), Tripartite Boards



- (i) not fewer than 1/3 of the members are persons chosen in accordance with **democratic selection procedures** adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and
- (ii) each representative of low-income individuals and families **selected to represent a specific neighborhood within a community under clause (i) resides in the neighborhood** represented by the member; and

Note:
applies
only to
nonprofit
CAAS

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Consumer Sector

OCS IM 82, Tripartite Boards



- Should be “*selected on the basis of some form of democratic procedure*”
 - Directly through election, public forum, etc.
 - Indirectly through selection by a community organization composed predominantly of and representing people with low-incomes
- Members should represent current residents with low-incomes, but do **not** need to have a low-income themselves

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Consumer Sector - Nonprofits



- For **nonprofit CAAs**, any consumer sector board member "selected to represent a specific neighborhood within a community . . . must reside in the neighborhood represented"
- **This means:** if a CAA's bylaws require board members to reside in the geographic area represented, then the board member must live in that area

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Consumer Sector - Publics

Section 676B(b)(1), Tripartite Boards



. . .the entity shall administer the community services block grant program through --

- (i) a tripartite board, which shall have members selected by the organization and shall be composed as to assure that not fewer than 1/3 of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members--
 - (A) are representative of low-income individuals and families in the neighborhood served;
 - (B) reside in the neighborhood served;** and
 - (C) are able to participate actively in the development, planning, implementation and evaluation of [CSBG-funded] programs . . .

Note: applies only to public CAAS

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Consumer Sector - Publics



- For **public CAAs**, all consumer sector board members must live in service area
- **Takeaway:** emphasis on ensuring that the voices of those being served are fully represented

Consumer Sector CAPLAW Resources



Raising the Low-Income Voice

Case Studies in Democratic Selection Procedures

INTRODUCTION

Updated April 2021

Since the inception of the Economic Opportunity Act, a fundamental goal of Community Action has been to provide low-income individuals with a voice in the administration of its poverty-alleviating programs. With the Community Services Block Grant (CSBG) Act's call to achieve "maximum participation" of the low-income community in the development, planning, implementation, and evaluation of CSBG-funded programs, a critical voice for the low-income community's participation in democratic procedures (the participation of the board) is the tripartite board.

Despite the importance placed on maximum participation of the low-income community, there is relatively little federal law that enforces what the means in the context of governance practices and procedures. The federal CSBG Act requires that "10 not fewer than 1/3 of the members of the board are persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served, and 1/3 each representative of low-income males and females be selected to represent a specific neighborhood within a community - namely in the neighborhood represented by the member." 42 U.S.C. §9910 (5)(2)(B).

The only further federal guidance comes in the Information Memorandum (IM) 82 from the Office of Community Services (OCS). This nonbinding guidance advises Community Action Agencies (CAAs) to "ensure that board members representing low-income individuals and families have been selected on the basis of some form of democratic procedure (the direct through election, public forum, or if not possible through a similar democratic process

such as election to a position of responsibility in another significant service or community organization such as a school PTA, a faith-based organization leadership group, or an advisory board/governing board) to another low-income service provider."

IM 82 advises CAAs to ensure democratic selection procedures: "directly through election (or public form)" but that it is not possible in "a large number of alternatives. The case studies in raising the low-income voice are focused on the "direct" democratic procedures. If a CAA determines that direct democratic procedures are not possible, it will likely be able to comply with the law by creating what may be called "micro" democratic selection procedures, wherein the CAA asks another group that is representative or comprised primarily of low-income individuals (e.g., a tenants' association from a local low-income housing development) to select someone from their group to sit on the CAA's board. Some of the snapshots in CAPLAW's Raising the Low-Income Voice resource discuss this type of "micro" democratic selection process.

While it is clear that CAAs must establish some kind of democratic selection procedure, it is not clear what that procedure should, or can, look like. Thus, it comes as no surprise that one of the more common questions asked of CAPLAW is, "how do we conduct a democratic selection process?" We initially created Raising the Low-Income Voice Case Studies in Democratic Selection Procedures to help the Community Action network answer this question by learning from their peers.

When the COVID-19 pandemic disrupted CAA operations beginning in 2020, we updated the case studies to reflect how these CAAs

Preserving the Low-Income Voice

Snapshots of Democratic Selection Procedures in a Pandemic

INTRODUCTION

The COVID-19 pandemic has created a multitude of unprecedented challenges for Community Action Agencies (CAAs). From scaling up and adapting existing programs to navigating new laws and administrative demands, CAAs have stepped up to meet those challenges and develop new procedures enabling them to better serve their clients.

One of the challenges that has soured CAAs to innovate is the need to recruit and elect representatives of the low-income community to serve on the tripartite board. Under the Community Services Block Grant (CSBG) Act, for a nonprofit or public CAA to receive CSBG funding, at least one-third of its board must be chosen in accordance with democratic selection procedures adequate to ensure that they are representative of the low-income individuals and families in the neighborhood served by the CAA (42 U.S.C. §9910). This requirement is unique to Community Action and serves as a hallmark of the program's commitment to providing low-income people with a voice in the development, planning, implementation, and evaluation of anti-poverty programs.

While it imposes the tripartite requirement, the federal CSBG Act does not offer any guidance on how to conduct a democratic selection procedure; for that, CAAs can look to CSBG Information Memorandum (IM) 82 from the Office of Community Services. IM 82 states:

Every effort should be made by eligible entities to assure that board members representing low-income individuals and families have been selected on the basis of some form of democratic procedure either directly through election, public forum, or, if not possible, through a similar democratic process such as election to a position of responsibility in another significant service or community organization such as a school PTA, a faith-based organization leadership group, or an advisory board/governing board by another low-income service provider.

CAPLAW has termed the latter method a "micro election", and many CAAs have used this type of procedure to assist another group that is representative or comprised primarily of low-income individuals to elect someone from their group to sit on the CAA's tripartite board. It is not enough for the emergency to serve the low-income population; it should itself be primarily made up of low-income individuals. This reflects the purpose of having a tripartite board in the first place: to establish a mechanism for gathering and empowering the feedback of the community served, along with the public and private sectors.

Micro elections are just one of the various ways a CAA may conduct recruitment and elections for the low-income representative sector of its board. Each CAA and service area are unique, but all have been tested in some way during the COVID-19 pandemic. Roughly half of 100 CAA respondents to a recent survey said they changed some aspect of their existing procedures for low-income sector board recruitment or elections in response to the pandemic. They revealed that the changes resulted in a more effective, streamlined process that enabled additional community members to participate. While various obstacles to client engagement still existed, such as lack of internet access, transportation and childcare, on top of state and local restrictions on gatherings and service delivery, CAAs adapted. Even amidst the difficulties, many agencies successfully recruited and elected new low-income sector representatives to their boards. Their experiences and solutions can assist other CAAs with tripartite board compliance through the remainder of the pandemic and beyond.

Private Sector

Section 676B(a)(1)(C), Tripartite Boards



The remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

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Private Sector



- May include individuals as well as private and public sector groups
- Focus is to select groups and interests to ensure broad community involvement
 - **Tip:** Will have more flexibility if bylaws don't specify individuals and organizations

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Private Sector

CAPLAW Resource



CAPLAW
FAQ



A series of common legal questions and answers for the CAA network.

Unlocking the Potential of the Tripartite Board Private Sector

By Jonathan Cohen, Esq.
March 31, 2021

The language in the federal Community Services Block Grant (CSBG) Act lays the groundwork for community action agencies (CAAs) to exercise great discretion when identifying, recruiting, and selecting private sector members and groups to serve on the tripartite board.

A hallmark of Community Action, the tripartite structure of a CAA board embodies the grassroots nature upon which the movement to alleviate poverty was founded, as it requires involvement by all facets of the community - elected officials, clients, and private sector members and groups. While the structure is required by the federal CSBG Act and at times can seem daunting, the involvement of private sector members and groups offers CAAs an opportunity to attract the knowledge, passion, and financial support they need to thrive.

Because of the flexibility in the CSBG Act, CAAs often have questions about the private sector, ranging from who may serve in it to how that person may be selected to serve. This FAQ seeks to answer these and other key questions, and to present ways in which CAAs can utilize the private sector seats to boost board capacity.

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Petition for Representation

Section 676 (b)(10), state plan assurance



An assurance that the State will require each eligible entity in the state to establish procedures under which a low-income individual, community organization, or religious organization or representative of low-income individuals that considers its organization, or low-income individuals, to be inadequately represented on the board (or other mechanism) of the eligible entity to petition for adequate representation

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Petitions for Representation



- CAAs **must** establish procedures for individuals with low-incomes, community organizations, and religious organizations to petition for representation on the CAA board if they feel as if they are not adequately represented
- **Recommendation:** Include language in bylaws/governing documents describing how a group may petition for representation

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Selection Tips



- Use a board committee
 - Supports ongoing recruitment needs
- Require an application
 - Helps set expectations for board service
- Vote to seat new members once designated or elected

2. ELECTING BOARD MEMBERS AND OFFICERS; DESIGNATING COMMITTEES²

A. *Electing New Board Members*

Upon motion duly made and seconded, the board unanimously

[Option 1: Voting to seat 1 board member]

VOTED: to elect [Name] to the board as a [tripartite board sector] director, with a term expiring in [year term expires].

[Option 2: Voting to seat multiple board members]

VOTED: that each of the following individuals be appointed to the board of directors, to serve in the sectors and for the term set forth opposite their name below:

[Name]	[tripartite board sector]	[year term expires]
[Name]	[tripartite board sector]	[year term expires]
[Name]	[tripartite board sector]	[year term expires]

CAPLAW Template Meeting Minutes and Index of Form Resolutions

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A Few Board Mechanics



- Federal CSBG Act **is silent** as to:
 - board terms
 - term limits
 - vacancies
 - resignation and removal
- If these mechanics are not addressed by state laws and guidance (i.e., state CSBG laws and policies, nonprofit corporations act, local laws), a CAA's governing documents will control

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Board Terms



- Specify terms in bylaws/governing documents
 - May have different rules for different sectors
 - Consider staggered terms
- **Remember:** check state laws and guidance first!

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Term Limits



Benefits	Drawbacks
Cultivate a variety of perspectives on the board	Lose board members with specific expertise
Expand community contacts	Lose institutional memory
Educate a larger sector of the community about the organization and its programs	Lose true supporters of the organization
Prevent a concentration of power among a small group of long-time leaders	Deplete resources to maintain ongoing recruitment efforts
Provide a diplomatic way for board members to exit	

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Filling Vacancies



- Communicate efforts to fill vacancies
 - **Remember:** state laws and guidance may specify time frames within which vacancies must be filled
- Indicate if a new member will serve out remainder of departing member's term or start new term

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Filling Vacancies



- Establish authority of board to act notwithstanding vacancies
 - **Sample bylaws language:**
 - *At all meetings of the board of directors a quorum shall equal a majority of the directors **then in office [as opposed to in the bylaws]***
- Consider reducing board
 - **Remember:** state laws and guidance may set board size minimums

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Resignation and Removal



- Include provisions on removal and resignation in bylaws
 - Consider “with or without cause”
 - Typically, preferable to remove a director “without cause”
 - If defining “cause”, allow for flexibility in unanticipated situations
 - Specify process, e.g., vote needed such as majority of board members
- **Remember:** check state laws and guidance!

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**Submit your questions now for our upcoming
A-B-CSBGs sessions!**

<https://www.getfeedback.com/r/JDjq6xdp>

January 17 – Uses of CSBG Funds

January 24 – Mechanics of CSBG

January 31 – Monitoring and Termination



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