

# COMMUNITY SERVICES BLOCK GRANT



**T**rainning  
ools  
for  
**PUBLIC CAA  
BOARDS**

## GOVERNANCE

**Tripartite Board Composition  
and Selection**

**CAPLAW**

Community Action Program Legal Services, Inc.

# Introduction

This self-training tool offers public Community Action Agency (CAA) boards a way to educate themselves on specific Community Service Block Grant (CSBG) governance requirements. Because of the differences between nonprofit CAAs and public CAAs, a separate tool is available for nonprofit CAA boards. The tool is focused 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
3. Low-income representative sector
4. Private sector

The board chair is encouraged to designate a board member to facilitate one of the four Parts as a training segment of a board meeting. Each Part has multiple sections and may be conducted by board members in approximately 20 minutes or less.

Each Part also offers specific directions for the facilitator regarding his or her role in guiding the full board through the different sections of the training tool. It is not necessary for the facilitator to possess specific knowledge about the Part he/she facilitates. Rather, the self-training tool is intended to educate the facilitator and other board members as they work through the different Parts of the tool together. Any preparation required of the board member facilitator is detailed in each Part.

A PowerPoint presentation, which mirrors this tool, has been created for each Part and may be used by the facilitator to help guide the discussions. We do **not** recommend distributing copies of the PowerPoint as they contain answers to the questions that the board will be asked to address throughout the training.

Materials needed for each Part are listed in the beginning of that Part. Some of the materials will be provided while others require the facilitator to work with board members to obtain.

As the board works through each Part, it should assign one board member to write down questions that it is unable to answer with the information provided in the training tool. The board should then follow up with the CAA's executive director or his or her designee if it needs assistance in answering these questions.

Throughout the tool are tips, notes, and examples which are designated by the graphics below. These tips, notes, and examples are intended to address potential questions and offer recommendations. They may be read by the facilitator to the full board at the facilitator's discretion.

**TIP** The tip text will be here

**EXAMPLE**

**NOTE:**

# 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

## All Materials Needed for Part II

Below is a list of all of the materials needed for the three learning objectives covered in this Part.

- Federal CSBG Act section setting forth tripartite board composition and selection requirements, 42 U.S.C. § 9910\*
- State CSBG statutes/regulations, if any exist
- Public Official Key Components Questionnaire*\*
- U.S. Department of Health and Human Services (HHS) Federal Office of Community Services (OCS) Information Memorandum (IM) 82\*
- Public Official Common Questions Questionnaire*\*
- CAPLAW Board Composition and Selection Matrix*\*
- List of CAA's current programs
- Current CAA's community needs assessment
- Current CAA's strategic plan
- Public Official Bylaws Provisions Questionnaire*\*
- Sample Public Official Bylaws Language\*
- A local ordinance or other official act such as a delegation agreement establishing the relationship between the public CAA board and the governing local body, if any exist.
- Full CAA bylaws with section(s) addressing board composition and selection highlighted for easy reference

### NOTE: REG VS. STATUTE

A *statute* is a law passed by a legislative body, while a *regulation* is a legal requirement issued by an executive branch agency.

\* Included in handouts. All other materials listed must be obtained by the board.

## PowerPoint for Part II

The facilitator may choose to use the PowerPoint that accompanies this Part to help guide the discussion. The PowerPoint mostly mirrors the text in the tool and copies of it should **not** be distributed to the board as it contains answers to questions that the board will be addressing throughout the training.

### Facilitator Task

Direct the full board to review the handouts prior to the training. Consider assigning each of the handouts to one or more individual board member(s) to read in depth so that they are prepared to help lead discussions on those handouts.

Also, if this part is conducted prior to Part I, see Part I for ways to involve the board members in gathering the materials needed for this part.

## 2.1 Know Public Official Composition Requirements

### Facilitator Task

Ask one board member to read to the board from the handout setting forth the federal CSBG Act public official requirement for public CAAs with a tripartite board structure. The requirement is also listed below along with the requirement directing public CAAs to use the tripartite structure if another structure is not established by the state.

Sections 9910(b)(1) and (2) sets forth the requirement that a public CAA maintain a tripartite board unless the state establishes another mechanism:

*(b) Public organizations. In order for a public organization to be considered to be an eligible entity for purposes of section 9902(1) of this title, the entity shall administer the community services block grant program through –*

*(1) a tripartite board... or*

*(2) another mechanism specified by the State to assure decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this chapter.*

Section 9910(a)(2)(A) sets forth the public official sector composition requirement which is as follows:

*(2)(A) 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.*

## 2.1 Know Public Official Composition Requirements

---

### Facilitator Task

Ask board members, either individually or in groups, to break down into segments the language in the federal CSBG Act setting forth the public official sector requirement. The board members may do so by creating a brief bulleted list of the key components of the requirement.

A tool to help board members identify the key components of the public official sector requirement is the **Public Official Key Components Questionnaire** included as one of the handouts. The facilitator should either ask the board the questions in the questionnaire, distribute copies of the questionnaire and/or refer to the PowerPoint.

If either a whiteboard or easel with a large note pad is available, designate a board member to write down the key components as they are identified by the board members.

#### Answers to the Public Official Key Components Questionnaire

##### What portion of the board is comprised of public official board members?

1/3 of the members of the board.

##### What type of public official should the board first try to identify as a potential board member?

One that is elected to a public office.

##### When must the public official be in the office to which she or he is elected to be in compliance with the public official requirement?

Must be holding public office on the date of selection to the tripartite board.

##### What if an elected public official is unable to attend board meetings?

The elected public official may select a representative to serve in his or her place as a member of the tripartite board.

##### What if there are not enough elected public officials reasonably available to serve?

The CAA may ask an appointed official to serve.

##### What if an appointed official is unable to attend board meetings?

The appointed official may select a representative to serve in his or her place as a member of the tripartite board.

## 2.1 Know Public Official Composition Requirements

### Facilitator Task

Ask board members either individually or in groups to compare the federal CSBG Act public official sector requirement with any public official sector requirement in the state CSBG statutes or regulations, if they exist. Have the board members identify and discuss the differences between the federal and state requirements, if any exist.

Ask the board members to read and highlight the sections of IM 82 discussing public official sector board composition and selection requirements.

Once the comparisons are complete, ask yourself and the board members the questions below, distribute copies of the **Public Official Common Questions Questionnaire**, and/or refer to the PowerPoint to ensure everyone understands how to best comply with the requirements. Encourage board members to discuss their answers to the questions and, if the answers differ from the ones written below, read the answers below and discuss them.

### Answers to the Public Official Common Questions Questionnaire

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

The overarching purposes for having public officials serve on tripartite boards are to facilitate awareness of and action on issues facing low-income people in the community by local and state governments, and to foster close coordination and partnership between local and state governments and CAAs in addressing those issues.

#### Who selects the public official board members, the board or the local governing body?

As discussed in Part I, for a public CAA employing a tripartite board structure, the decision-making body of the organization is the local governing body (for example, the city council or board of county commissioners), unless that body has delegated the responsibility of selecting board members to the tripartite board itself. If the governing body retains the authority to choose the board, then the tripartite board can make recommendations to the governing officials.

#### Is the CAA required to select local county commissioners/supervisors or city councilors as public official board members?

The federal CSBG Act does not identify which public officials ought to serve on the tripartite board. For public CAAs, the local governing body usually has significant input or final say on many of the decisions affecting the CAA. Therefore, it may be redundant to include them on the tripartite board. Instead, a public CAA may want to consider including other public officials on the tripartite board.

## 2.1 Know Public Official Composition Requirements

---

**Is an elected public official required to be in office to continue serving on the board? In other words, if, while the elected public official is serving on the board, his or her term in public office ends and he/she is not reelected or chooses not to run for public office again, must the public official step down from the tripartite board?**

The federal CSBG Act only requires that a public official be holding office on the date of selection to the tripartite board. There is no prohibition in the federal CSBG Act preventing a public official from continuing to serve the remainder of his or her term as a director even if it extends past his or her term of public office. However, the federal Office of Community Services (OCS) recommends in non-binding guidance issued in IM 82 that elected officials serve on boards only while they are in office. Moreover, state CSBG laws/regulations may require that public officials be “currently holding office.” If your state requires that public official directors be currently holding public office while serving on the CAA board, this requirement should be specified in the CAA bylaws.

**May a representative appointed by a public official continue to serve on the board even if the public official who designated him or her is no longer holding office?**

Again, the federal CSBG Act does not directly answer this question. However, OCS IM 82 interprets the CSBG Act language regarding public officials holding office on the date of selection as requiring individuals designated by elected or appointed officials to serve only while their principals are in office or be re-designated by a public official still in office.

**When a public official designates a representative to serve in his/her place, who is seated on the board and who votes?**

The individual who the representative has chosen, not the public official, serves as the board member and votes at the board meetings.

**Do any requirements exist regarding the type of representative a public official may appoint to serve in his or her place?**

No. It is within the public official’s discretion to choose the representative who will serve in his or her place.

**TIP** CAPLAW recommends that either the local governing body and/or the tripartite board develop a process for the public official to follow when designating a representative which may include the local governing body and/or board providing the public official with recommendations of possible representatives the public official may consider designating to serve in his/her place.

## 2.2 Improve Public Official Selection

---

Selecting a board member is no easy task. With each sector of the board, the needs of the organization along with the passion, experience and skills of a potential board member must be weighed. The following exercise is intended to educate all board members one way to approach either selecting public officials or identifying public officials to recommend to the local governing body when filling current or potential vacancies. A similar exercise is available for each sector of the board in each Part. The board may conduct all three exercises separately or at the same time.

### Facilitator Task

Ask board members either individually or in groups to identify the current public official board members and the office that they are either elected or appointed to fill. If the public official has designated a representative to serve in his or her place, list the representative and the public official designator. Also, ask the board members to briefly review the current community needs assessment, strategic plan and list of CAA programs. The board should then discuss the current and future needs of the CAA and make a list of the attributes they are looking for in prospective public official board members. Consider using a board matrix to help track the attributes important to the board.

Ask board members to then make a list of elected and appointed public officials in your service area. This list may include judges, law enforcement professionals, superintendent of schools, school committee members, etc. The board should determine if the attributes identified match up with characteristics of potential public official sector board members. Making this assessment may require assigning board members to research and/or meet with those public officials identified and report back to the board. Once prospective public official board members are determined to be a good fit, make a list which may be used to fill future vacancies on the board. Also, consider inviting these prospective board members to board meetings.

## 2.3 Understand Public Official Bylaws Provision

---

### Facilitator Task

Ask yourself and the board members the following questions, distribute copies of the **Public Official Bylaws Provision Questionnaire**, and/or refer to the PowerPoint to determine if your current bylaws provision(s) may need to be revised.

Ask board members either individually or in groups to compare the language in the **Sample Public Board Members Bylaws Language** handout (and also pasted below) to the CAA's current bylaws language. Board members should note the differences and discuss them. Board members should discuss why the language may differ and, whether it would be beneficial to revise the existing bylaws language.

### Sample Bylaws Provisions

Sample bylaws public official board member composition language:

*One-third of the directors shall be 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 one-third of the membership of the board, appointive public officials or their representatives may be counted in meeting such one-third requirement (Public Official Board Member).*

Sample bylaws public official board members selection language if the local governing body has delegated its authority to select the public official board members to the board:

*Public Official Board Member. The board of directors shall select elected public officials to serve as Public Official Board Members. If the number of elected officials reasonably available and willing to serve on the board is less than one-third of the board, the board may select appointed public officials to serve. If either an elected or appointed public official selected by the board of directors cannot serve him- or herself, s/he may designate a representative, subject to approval of the board of directors, to serve as a Public Official Board Member; the representative may, but need not be, a public official.*

## 2.3 Understand Public Official Bylaws Provision

Sample bylaws public official board members selection language if the local governing body has not delegated its authority to select the public official board members to the board:

*Public Official Board Member. The board of directors shall recommend to the local governing body elected public officials to serve as Public Official Board Members. If the number of elected officials reasonably available and willing to serve on the board is less than one-third of the board, the board may also recommend appointed public officials to serve. If either the elected or appointed public official recommended by the board of directors cannot serve him- or herself, s/he may designate a representative. The board of directors may recommend representatives to serve as a Public Official Board Member; the representative may, but need not be, a public official.*

### Answers to the Public Official Bylaws Provision Questionnaire

#### Do the bylaws establish a procedure for the board to either select or recommend public official board members?

- If yes, what is the procedure? How was it developed? Does it comply with the requirements for public official board members set forth in the federal CSBG Act and/or state CSBG statutes and regulations (if any exist)?
- If no, how has the board been involved in the selection of public official board members? Is the procedure used compliant with the requirements for public official board members set forth in the federal CSBG Act and/or state CSBG statutes and regulations (if any exist)?

#### Do the bylaws establish terms for public official board members?

The federal CSBG Act does not include requirements addressing tripartite board terms. Because public official board members must be holding office on the date of selection, establishing the terms that public official board members are to serve helps to ensure that public official board members are in office for most of the time they are serving on the board. In some cases, public official board members will have shorter terms than board members from the other sectors of the board to correspond with their terms in public office. If a local ordinance or other official act (such as a delegation of authority agreement) does not address terms for public official board members, CAPLAW recommends addressing terms for them and all board members in a separate section of the bylaws and, if desired by the local governing body and/or board, term limits. For sample term and term limits language see CAPLAW's Bylaws Toolkit available for purchase on CAPLAW's website, [www.capl原因.org](http://www.capl原因.org).

#### Do the bylaws specify the public official who must be selected (i.e, they state that the current county commissioners/supervisors or city councilors representing a particular service area will always be selected to fill the public official board member seat, etc.)?

CAPLAW recommends not designating specific public officials in the bylaws. By not specifying public officials, the board will have more flexibility throughout the selection process and will not run the risk of having to seat an individual on its board who may neither meet the needs of the CAA nor further the CAA's best interest.

#### NOTE: STATE CSBG LAWS

Some state CSBG laws include specific information that CAAs must include in their bylaws. If a CAPLAW recommendation differs from the state requirement, the CAA should either comply with the requirement or contact CAPLAW.

## 2.3 Understand Public Official Bylaws Provision

---

### Facilitator Task

After finishing Part II, consider asking the group to complete the following tasks to gauge what and how much information was learned:

- **List three 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**

After the board members have completed these tasks, ask them to share and discuss their responses with the full board. The board should consider whether it would like to move forward with any changes proposed to improve board operations and consider authorizing the governance committee to research the proposed changes further, if necessary.

## Grant Acknowledgment

---

*This training tool is part of the National T/TA Strategy for Promoting Exemplary Practices and Risk Mitigation for the Community Services Block Grant (CSBG) program and is presented free of charge to CSBG grantees. It was created by Community Action Program Legal Services, Inc. (CAPLAW) in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Cooperative Agreement – Grant Award Number 90ETO433. Any opinion, findings, and conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Health and Human Services, Administration for Children and Families.*