



## From Community to Boardroom: FAQ on Democratic Selection and the Low-Income Sector

Low-income individuals in the community have an important voice in the administration of poverty alleviating programs. The federal Community Services Block Grant (CSBG) Act recognizes this and requires each Community Action Agency (CAA) to have a tripartite board of directors with one of the three sectors dedicated to individuals representing the low-income community served.<sup>1</sup> A CAA must select representatives of the low-income community in accordance with democratic selection procedures. While this process serves as a pathway for community engagement, it also often generates a lot of questions and confusion. This FAQ reflects the questions CAPLAW has received over the years about this sector of the board, especially the democratic selection process, and is intended to help tripartite boards understand and navigate this complexity.

In addition to the CSBG Act, federal agency guidance such as Office of Community Services (OCS) Information Memorandum (IM) 82 and IM 138 informs the purpose of and processes used for the low-income sector. IM 82 is the only guidance issued by OCS focused on the tripartite board, and IM 138 establishes the [CSBG Organizational Standards](#).<sup>2</sup> State CSBG statutes and regulations (“state CSBG laws”), state nonprofit corporation acts governing private CAAs, local laws governing public CAAs, and any other applicable state laws and guidance should also be considered when a CAA is evaluating its tripartite board structure.

Answers referencing CAAs include both private, nonprofit CAAs and public CAAs, unless otherwise specified. References to bylaws include both private CAA bylaws as required under state nonprofit corporation acts as well as the governing documents that establish the tripartite board operations of a public CAA. The FAQ notes when and how the answers may differ for only private or public CAAs.

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## BASICS

### 1. Why have a low-income sector of the board?

The CSBG Act requires a private CAA board of directors to have a low-income sector to receive CSBG funding.<sup>3</sup> A public CAA must administer its CSBG program either through a tripartite board (including a low-income sector) or via “another mechanism” specified by the state that assures the participation of low-income individuals (see Question 2).<sup>4</sup>

The CSBG Act requires low-income sector directors to be democratically selected representatives of the communities served by CAAs. In this way, they share close connections to those communities, help CAAs link with them, and increase CAAs’ understanding of how to best respond to community needs. This sector is a hallmark of Community Action’s historic commitment to achieve “maximum participation” of the low-income community in the development, planning, implementation, and evaluation of CSBG-funded programs.<sup>5</sup>

### 2. What does administering CSBG through “another mechanism” mean for public CAAs?

States have the option to specify a governance structure other than the tripartite board for a public CAA to ensure the participation of low-income individuals in the administration of its CSBG program.<sup>6</sup> A state must indicate in its CSBG plan if it permits this choice. Since states decide if public CAAs may use this alternative structure, the specifics of the mechanism will vary depending on the state and will inform democratic selection procedures at the public CAA, if any. For example, a state may specify that a public CAA can use a specific kind of county-based organization to stand-in for the tripartite board where that organization serves a similar community to CAAs. A state could also allow public CAAs to propose a method that fits the needs of the particular CAA, which the state would evaluate to ensure it fulfills the purposes of the CSBG Act.<sup>7</sup>

### 3. What is this sector called?

There is no federal law or guidance requiring a CAA to call this sector of the board by a specific name. Unless state CSBG laws or guidance indicate otherwise, a CAA has discretion to refer to the sector in whatever way the CAA feels best reflects the community and the contribution that the community is making to the organization. Common ways CAAs refer to this sector include “low-income,” “community,” “target,” “consumer,” or “client.” Directors serving in this sector of the tripartite board are permitted to receive CAA services so long as the director is eligible and treated in the same way as others seeking those services.<sup>8</sup>

### 4. How many low-income sector directors should a CAA board have?

The federal CSBG Act requires at least one-third of a CAA’s directors be low-income sector directors. The language “at least” offers a CAA the flexibility to increase the percentage of low-income sector directors *above* one-third of its total directors if it so chooses. A CAA may take advantage of this flexibility for a variety of reasons. For example, it may believe that doing so provides more community representation and investment in the work of the organization and allows them to better understand and meet the needs of the community. Other CAAs may choose to stay at one-third for reasons such as difficulty identifying, recruiting, or selecting low-

income sector directors, or to achieve greater balance with the other sectors of the board.

If a CAA opts to include more than one-third low-income sector directors on its tripartite board, the CAA must be mindful that the total number of directors remains divisible by three. Because the federal CSBG Act requires elected or appointed public officials (or their representatives) to make up exactly one-third of the board, the board must be divisible by three. This means that when the low-income sector is more than one-third, the sector comprised of individuals representing other major groups and interests in the community will be less than one-third of the board.

## 5. Do requirements for the low-income sector vary across states?

Yes, many states have enacted state CSBG laws that impact the low-income sector. While state laws cannot conflict with federal laws, they can add specificity or additional requirements where federal law is silent or sets a floor rather than a ceiling. This is especially true in the CSBG context, since CSBG is a block grant and states have discretion in how they administer the funding. IM 82 emphasizes the state's discretion when assessing compliance with tripartite board composition and selection requirements. Thus, CAAs should, whenever possible, work with their state CSBG offices on developing the different ways a CAA may meet the intent of the democratic selection requirement in the federal CSBG Act.

# DEMOCRATIC SELECTION PROCEDURES

## 6. How does a CAA select directors for the low-income sector?

A CAA has some flexibility to determine how it democratically selects its low-income sector directors. While the federal CSBG Act requires CAAs to elect low-income sector directors in accordance with “democratic selection procedures,” it does not provide details about those procedures. OCS provides non-binding guidance about democratic selection in IM 82. IM 82 states that CAAs should make every effort to assure that directors representing low-income individuals and families are selected on the basis of some form of democratic procedure either directly through election, public forum, or if those are not possible, through a similar democratic process. IM 82 outlines two general options for democratic selection: direct election or what CAPLAW refers to as “micro election” or “micro democratic selection.”

Direct election procedures may include processes such as election by ballots cast by the CAA's clients and/or by other people with low incomes in the CAA's service area at designated polling place(s), at the CAA's offices, or via the internet and voting at a community meeting attended by people with low incomes, which could be held not simply to select low-income sector directors but also to address a topic of interest to people with low incomes. CAPLAW's [Raising the Low-Income Voice](#) case studies include examples of how CAAs use direct election to select low-income sector directors.

If a CAA determines that direct election is not preferable, it can comply with the law by creating micro election procedures. IM 82 states that CAAs may select low-income sector directors through a similar democratic process to direct election “such as election to a position of responsibility in another significant service or community organization.” Micro election procedures involve a CAA asking *another* group that is representative of and comprised primarily of low-income individuals to select someone from their group to sit on the CAA's board. An example of micro democratic selection procedures is the Welfare Reform Liaison Project in CAPLAW's [Preserving the Low-Income Voice](#) resource.

## 7. What type of group or organization can a CAA use for micro democratic selection?

The group conducting the micro election should be a community body composed predominantly of people with low incomes. IM 82 notes that a representative from an electing entity that only serves the low-income population is not recommended; the governing body of the entity should itself be primarily made up of low-income individuals who select a director to serve in the CAA's low-income sector. This approach aligns with a major purpose of the low-income sector: to establish a mechanism for gathering feedback from and empowering the community served.

Examples of organizations and groups that a tripartite board may use in micro election procedures include a Head Start Policy Council, low-income housing tenant association, the board of a community health center, a school PTA, a faith-based organization leadership group, or an advisory board/governing council to another low-income service provider.

## 8. How does a public CAA facilitate its democratic selection process?

Since a public CAA operates either within the local government or under local government control, the governing body (e.g., the city council or board of county commissioners) retains decision-making authority over selection of tripartite directors, unless that body delegates that authority to the tripartite board. A written agreement between the local governing body and the public CAA (e.g., a delegation of authority agreement) may set out the level of authority delegated to the tripartite board and also may include procedures related to director selection. This agreement can take many forms and may be found incorporated into a section of a public CAA's bylaws or governing documents. A local ordinance or other official act may also establish democratic selection procedures to be used for selecting low-income sector directors.

## 9. Where and how should a CAA document its democratic selection procedures?

While CSBG Organizational Standard 5.2 establishes documentation requirements for both private and public CAAs, the standard that applies to each type of entity slightly differs. The standard requires that both private and public CAAs have written procedures documenting a democratic selection process. The standard differs for public CAAs in that the written procedures may, if permitted by the state, document "another mechanism" that assures participation of low-income individuals other than the tripartite board and democratic selection procedures.

A private CAA may document its democratic selection procedures in its bylaws or another governing document. The bylaws may, but do not need to, describe the procedures in detail. Some CAAs include detailed selection procedures in the bylaws (especially if required by their state CSBG laws) while others include a general statement in the bylaws and details in a separate document approved by the board. The latter approach is recommended, particularly for private, nonprofit CAAs, as they are typically bound by the bylaws amendment process in a state's nonprofit corporation act. Thus, placing details in a separate document makes for easier updates or changes to selection procedures. This approach also affords boards greater flexibility to adjust selection procedures in response to evolving director recruitment and selection efforts or challenges. A CAA should strive for written democratic selection procedures that are clear and easy to follow and incorporate options for the CAA. The level of detail included will vary by CAA. Having more detail helps

maintain consistency over time, especially with staffing changes, whereas having less detail can result in greater flexibility and prevent overcomplication. Regardless of the initial approach, the selection procedures are a living and often evolving document that the tripartite board will regularly reference and update, as needed. CAPLAW's [Raising the Low-Income Voice](#) case studies include several examples of such written procedures.

## 10. Should a CAA board vote to seat directors in the low-income sector?

The full board should vote to seat each nominee selected to serve on the board, including those nominees selected via a democratic selection process. CAAs should include general language in the bylaws to this end to retain control over the seating and removal of directors.

Under some state nonprofit corporation acts, where a director is designated or appointed by a third party, only that party may remove the director they designated or appointed. Requiring the board to vote to seat the nominee means that the board – and not the third party – retains control over its members and therefore may remove any directors appointed or elected by third parties.

To maintain compliance with the federal CSBG Act requirement that low-income sector directors be democratically selected, a board should only vote not to seat or to remove the director for an objective reason that would prevent any individual from serving on the board. For example, ineligibility: individuals typically not eligible to serve on a tripartite board include those barred from working with federal grants or who fail to meet required funding source criteria.

## 11. Must a CAA verify that individuals voting for the low-income sector directors are low-income?

The federal CSBG Act does not require that CAAs verify CSBG income eligibility for voters. A CAA's democratic selection procedures should align with the spirit of the federal CSBG Act, which requires that low-income sector directors are representative of the low-income individuals and families in the CAA's service area.<sup>9</sup> Ways a CAA could demonstrate that it is capturing the votes of the low-income individuals in the community include: conducting direct elections in locations frequented by clients from the service area, setting up voting stations at a service center, and maintaining data that shows the economic make-up of the communities in which the elections are held.

## 12. Should a CAA impose age requirements on voters or candidates for the low-income sector?

There is no federal CSBG requirement or guidance on age requirements for voters or candidates to participate in a CAA's democratic selection process. However, minors under the age of 18 typically require parental or guardian approval to make legally binding decisions. When deciding whether to impose age requirements, consider any state laws around minors' legal capacity.

CAAs may consider whether allowing minors to vote, with parental or guardian approval, would result in low-income sector directors who are representative of the community served or if other ways exist that better enable a CAA to benefit from minors' input in governance. For example, if a CAA's service area has a high

proportion of young people, allowing them to vote in low-income sector director elections may result in a more representative low-income sector. Alternatively, encouraging youth who participate in a CAA's CSBG-funded programs to sit on a youth advisory board could also help establish leadership opportunities while bolstering the voice of minors in the CSBG program.

## CHARACTERISTICS

### 13. Is there a residency requirement for low-income sector directors?

For private CAAs, the federal CSBG Act does not establish a general residency requirement for low-income sector directors. If a CAA establishes a residency requirement in its bylaws, then one exists.

For public CAAs, the federal CSBG Act specifically requires low-income sector directors to “reside in the neighborhood served.” The Act does not define the neighborhood served, so it could encompass the CAA's entire service area or a portion thereof.

### 14. Do low-income sector directors have to be low-income themselves?

The federal CSBG Act does not require individuals elected to serve as low-income sector directors to have low incomes. However, IM 82 recommends that CAAs strive to have low-income individuals, especially those who reside in the CAAs service area, serve as low-income sector directors. Doing so reflects the intent of the low-income sector to represent the voice of the low-income people served by the CAA.

## RE-SELECTION AND VACANCIES

### 15. How often does a CAA need to re-select low-income sector directors?

A CAA should follow its bylaws to determine if, and how often, the board needs to facilitate re-selection of low-income sector directors. No federal law speaks to the length of any tripartite director term. A CAA should follow the terms and term limits in its bylaws, which state nonprofit laws and state CSBG laws may inform. CAPLAW's [Bylaws Toolkit](#) includes pros and cons related to terms and term limits that may help a board think through its approach. IM 82 encourages the revalidation of longer-term low-income sector directors through some form of democratic process to keep such directors current as the community changes.

### 16. How and when must a CAA fill vacancies in the low-income sector?

The federal CSBG Act does not address the time frame within which a CAA must fill a vacancy. Rather, a CAA is required to fill board vacancies as set out in its bylaws, pursuant to CSBG Organizational Standard 5.5. Given the unique composition and selection requirements of the low-income sector, it may take three to six months before a candidate is selected via a democratic selection process. CAAs should document their good faith efforts to fill vacancies in a timely manner. If a CAA is experiencing difficulty filling vacancies, it should communicate openly with its state CSBG office about the challenges and its ongoing work.

A CAA should also include in its bylaws language addressing how long a replacement director that fills a mid-term vacancy will serve. For example, the replacement director may serve out the remainder of the prior



director's term or their own full term. Similarly, if the CAA has term limits, it must determine how to count a replacement's partial term toward any applicable term limits. Some CAAs may decide to consider the partial term a full term for purposes of term limits, others may not. CAPLAW's [Bylaws Toolkit](#) includes sample bylaws language regarding vacancies on the board.

## RECRUITMENT

### 17. What methods can a CAA use to recruit directors for the low-income sector?

A CAA should continually recruit board candidates, including for the low-income sector. Recruitment for low-income sector directors who are elected through direct election can consist of outreach to existing CAA clients and recipients of CAA services. For example, a CAA can use case management software or a client database to conduct outreach to a portion of the low-income households in its service area. This method is shown in the Community Action, Inc. and Southeastern Idaho CAA case studies in CAPLAW's [Raising the Low-Income Voice](#) resource. CAAs may choose to mail postcards to clients or staff may recruit clients as they access services such as food distributions at the CAA's service center. This was done by New River Community Action and Capital Area Community Services, Inc. in CAPLAW's [Preserving the Low-Income Voice](#) case studies. A CAA may use digital marketing to get the word out about opportunities to serve in its low-income sector, like Utah Community Action in CAPLAW's [Preserving the Low-Income Voice](#) case studies. CAAs can also implement leadership initiatives for low-income community members to learn advocacy skills and gain an interest in tripartite board membership. This was done by Montgomery County Community Action Agency in CAPLAW's [Public CAA Case Study](#).

A CAA using micro democratic selection procedures should nurture its existing relationships with local organizations and groups and consider building new relationships that can assist in selecting individuals to serve as low-income sector directors. For example, CAAs can conduct individual outreach to local organizations to learn about them and inform them about CSBG and the tripartite board structure. This is highlighted in the Welfare Reform Liaison Project case study in CAPLAW's [Preserving the Low-Income Voice](#) resource.

### 18. How can a CAA strategically recruit for the low-income sector?

A CAA should approach recruitment of low-income sector directors similarly to the recruitment for any other tripartite sector – with an understanding of the skills, knowledge, and expertise it needs to build greater capacity on its board. Within this context, a CAA positions itself to consider the attributes of potential directors and their possible contributions to the board. One way for a board to align its recruitment process with board needs is to use a governance committee to oversee the process. A governance committee can also solicit director applications, oversee orientation and training for new directors, and coordinate the board's periodic evaluation process of itself and the CAA's governance structure, policies, and procedures.

A helpful tool for the governance committee and/or the full board is a board matrix. A board matrix lets the board visualize what types of directors will fit the needs of the CAA. It may include characteristics relevant to individuals with low incomes such as leadership experience, whether they are parents, and how use of services helped them evolve.



## MISCELLANEOUS

### 19. Can a CAA solicit donations from directors in its low-income sector?

Yes, a CAA can solicit donations from its directors, including low-income sector directors. A CAA may wish to solicit donations from its low-income sector directors to ensure that it is treating all directors fairly regardless of their income or to meet certain foundation requirements which often require that all directors donate to the organization.

A CAA may choose to accept cash donations as well as in-kind donations, such as time and volunteer efforts. Boards can be creative in this area, for example, by permitting a low-income sector director to spearhead a team that raises funds as part of a community walk or race.

### 20. Can a CAA compensate low-income sector directors for their board service?

Most CAA directors serve as unpaid volunteers. However, CAAs typically reimburse expenses that their directors incur while performing services as directors. Some state laws restrict the compensation that a CAA may provide to directors while others prohibit it. The federal Volunteer Protection Act (as well as state volunteer protection laws) limits the immunity from liability provided to volunteer directors if they receive compensation.<sup>10</sup>

Even when state laws allow reasonable director compensation, in practice, CAAs may choose not to compensate their directors for other reasons. IM 82 recommends that directors not receive financial gain from their board service. The Head Start Act explicitly prohibits Head Start grantees from compensating their directors.<sup>11</sup>

CAAs who choose to compensate directors should consider whether compensation will be considered taxable income to the recipient and whether the payment would trigger reporting obligations for the CAA. If a low-income sector director is also a client, consider how the CAA's programs define income and whether this payment will impact the individual's income eligibility. A CAA should also consider its conflict-of-interest policies, any specific funding source requirements, and any applicable state nonprofit corporation acts or local laws when making such payments.

### 21. How should a CAA include low-income sector directors on committees?

For any committees with substantial board authority, such as an executive committee, a CAA should strive to maintain the tripartite structure or at least require that any such committees consist of at least one-third low-income sector directors. This practice is consistent with the intent of the federal CSBG Act to promote maximum participation of people with low incomes in the administration and planning of the CSBG program. For private CAAs, the state nonprofit corporations act may impose certain composition requirements for committees, like the executive committee, that have the authority to act on behalf of the full board. Those requirements generally consist of requiring the officers of the board (i.e., President, Vice President, Secretary, and Treasurer) serve on such committees.

A CAA's bylaws should specify how the board establishes committees and appoints their members. CAPLAW's [Bylaws Toolkit](#) includes further information on establishing CAA board committees.

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## FOOTNOTES

<sup>1</sup> 42 U.S.C. § 9910

<sup>2</sup> Information Memorandum 82; Information Memorandum 138. The 2016 Consolidated Appropriations Act directed state CSBG offices to give an assurance that they would adopt performance standards. The CSBG Organizational Standards as set forth in IM 138 (or an acceptable alternative) were thus adopted by state CSBG offices at the direction of OCS pursuant to the Appropriations Act.

<sup>3</sup> 42 U.S.C. § 9910(a)

<sup>4</sup> 42 U.S.C. § 9910(b)

<sup>5</sup> 42 U.S.C. § 9910(a)(1); 42 U.S.C. § 9901(2)(D)

<sup>6</sup> 42 U.S.C. § 9910(b)

<sup>7</sup> This example references “another mechanism” as it operates in New Jersey pursuant to the [State of New Jersey’s Department of Community Affairs Program Policy Bulletin #15-07](#).

<sup>8</sup> 26 C.F.R. § 53.4958-4(a)(4)(v)

<sup>9</sup> 13 42 U.S.C. § 9910(a), (b)

<sup>10</sup> 42 U.S.C. § 14501 et seq.

<sup>11</sup> 42 U.S.C. § 9837(c)(1)(C)(ii)

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