

Revised CHDO Regulations Relax Board Composition Requirements



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Nonprofit Community Action Agencies (CAAs) that receive certain housing-related grants now have more flexibility related to board composition as a result of an update to the federal rules governing Community Housing Development Organizations (CHDOs).

The HOME Investment Partnerships Program (HOME) is a federal grant administered by the Department of Housing and Urban Development (HUD).¹ States and localities that receive HOME funds, called participating jurisdictions, must use the grant for affordable housing activities that meet the needs of low-income households in their area.

While a participating jurisdiction can carry out HOME programs on its own, at least 15% of HOME funds a participating jurisdiction receives must be reserved for specific activities conducted by CHDOs.² CHDOs are private nonprofit community-based organizations that provide low-income housing and meet certain legal and organizational requirements.³ A CHDO must have staff with the capacity to develop affordable housing for the community it serves. CAAs may be CHDOs, in which case the requirements of both the CSBG Act and HUD statutes and regulations apply.

For many years, a CAA that wished to become or was a CHDO had to comply with a governance structure requirement restricting the number of public officials that could serve on its board. Under these prior CHDO regulations, no more than one-third of the board of any CHDO could be comprised of public officials or employees of a governmental entity.⁴ HUD guidance interprets this broadly to include elected officials, appointed officials, representatives of an elected or appointed official, and employees of a public agency or government department of the participating jurisdiction.⁵ This interpretation has included individuals not typically considered “public officials” by CAAs, for example, professors at public universities. Many CAAs have struggled because of how this requirement interacts with the tripartite board requirements of the CSBG Act. CAAs are *already* required to have exactly one-third of their board be elected or appointed public officials, which left them no room to include public officials (as defined by HUD guidance) in the other sectors.⁶

While HUD’s interpretation of who counts as a public official has not changed, the application of that guidance has changed for the benefit of CAAs. In February 2025, HUD revised the CHDO regulations to state that “no more than one-third of the board members of the organization may be officials or employees of the participating jurisdiction or governmental entity *that created the community housing development organization*” (emphasis added). Since most nonprofit CAAs are not created by a participating jurisdiction or governmental entity, the board composition requirements on public officials no longer apply. The amended regulations went into effect in April 2025.⁷

HUD clarified this new position in the preamble to its final rule in the Federal Register:

The Department [] agrees that its guidance should be clearer that, while all CHDOs must be free from governmental control, the one-third limitation on public officials only applies to CHDOs that were created by the participating jurisdiction or another governmental entity. For CHDOs not created by a governmental entity, the participating jurisdiction must determine that the CHDO is not a governmental entity and is not controlled by a governmental entity.⁸



There is no HUD guidance regarding how a participating jurisdiction determines that a CHDO is not a governmental entity or controlled by one. Instead, HUD leaves it to each participating jurisdiction to establish a process for making that determination and certifying a CHDO. At a minimum, a nonprofit CAA should retain documentation that shows it is a private nonprofit created pursuant to the corporate laws of its state (i.e., articles of incorporation or nonprofit registration).

This change to the CHDO regulations creates greater flexibility for CAAs balancing tripartite board, Head Start director, and other funding-specific board composition requirements.

END NOTES

¹ Congressional Research Service, *An Overview of the HOME Investment Partnerships Program*

² HUD Exchange, *HOME CHDO Policy Guidance and FAQs*: “A CHDO is a private nonprofit, community-based organization that has staff with the capacity to develop affordable housing for the community it serves. In order to qualify for designation as a CHDO, the organization must meet certain requirements pertaining to their legal status, organizational structure, and capacity and experience.”; 24 CFR 92.300(a)

³ 24 CFR 92.2 “Community housing development organization”

⁴ 24 CFR 92.2 “Community housing development organization” (Apr. 19, 2025)

⁵ HUD Exchange, *Building HOME Online Training*: “A CHDO is not required to have public sector representation on its board of directors. However, the CHDO may find it helpful to include individuals who understand the HOME Program and local government processes. Public sector representatives include elected officials, appointed officials, public employees, and persons appointed by a public official of a governmental entity.”

⁶ 42 U.S.C. § 9910

⁷ HOME Investment Partnerships Program: Program Updates and Streamlining-Delay of Effective Date (90 FR 8780)

⁸ HOME Investment Partnerships Program: Program Updates and Streamlining (90 FR 746)

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