



Preparing to Lead: What New EDs/Board Members Need to Know about the Board



Community Action Partnership
2018 Convention
August 29, 2018

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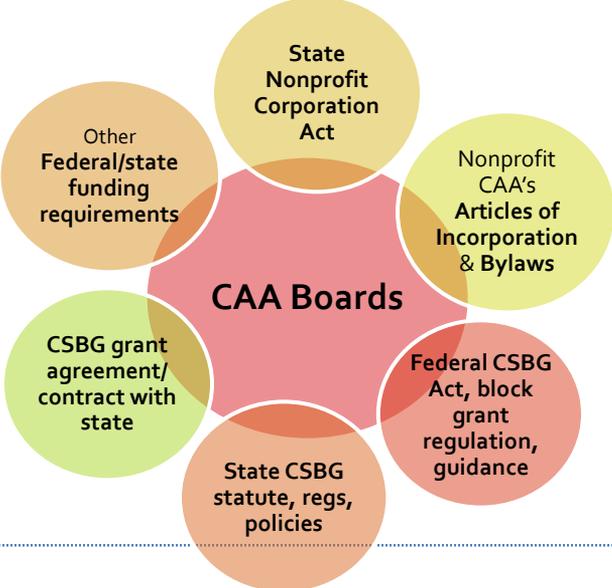
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Community Action Program Legal Services, Inc.

Agenda

- Legal Requirements Governing Tripartite Boards
- A Few Brief Points About How a Board of Directors Operates
- Role of the Tripartite Board
- Key Responsibilities of the Tripartite Board

Legal Requirements Governing Tripartite Boards

Legal Requirements



State Nonprofit Corporation Act

- **Generally, sets minimum standards of compliance and “default rules.” True or False**
 - For example, may establish vote requirements for certain actions; removal provisions; committee composition requirements, etc.
- **Articles filed and bylaws created pursuant to the Act**
 - If provisions of articles or bylaws are not consistent with the Act then have no legal effect

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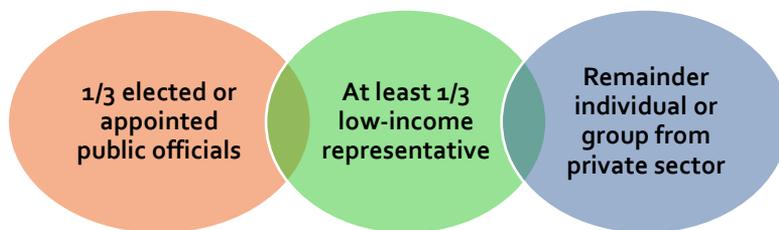
Articles and Bylaws

- **Articles should contain as much, if not more, information as the bylaws. True or False**
 - If provisions in the bylaws and articles conflict, the articles will control so review together if amending them
- **Bylaws establish the ways in which the CAA will operate**
- **Reflect funding source governance requirements**
 - Ex., CSBG tripartite board composition and responsibilities; Head Start board composition, responsibilities and conflicts of interest requirements

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Federal CSBG Act

- The tripartite board composition is a suggested practice and not required by the federal CSBG Act. True or False



- Requires tripartite board to be fully engaged in the **development, planning, implementation and evaluation.**

42 U.S.C. § 9910

Tripartite Composition Resources

www.caplaw.org

This block contains three overlapping resource documents:

- CAA Leaders' LEGAL GUIDE:** A publication by CAPLAW and the Community Action Partnership. Chapter Two: Community Services Block Grant. The Table of Contents lists sections such as History, Overview of Law and Guidance, Allocation and Use of Funds, and Tripartite Boards. The "Tripartite Boards" section is circled in red.
- COMMUNITY SERVICES BLOCK GRANT:** A training tool titled "Training Tools for NONPROFIT BOARDS". The introduction states: "This tool focuses on the CSBG requirements relating to tripartite board composition and selection and is divided into the following four parts, which may be completed separately or together: 1. General tripartite board composition and selection information, 2. Public official sector, 3. Low-income representative sector, 4. Private sector." A "We're here!" icon is also present.
- Raising the Low-Income Voice:** Case Studies in Democratic Selection Procedures. The introduction states: "The only further Federal guidance comes in the form of the Economic Opportunity Act, which established the Community Services Block Grant (CSBG). The remaining guidance comes in the form of the Case Studies in Democratic Selection Procedures." The Table of Contents lists Case Study 1 (Salt Lake Community Action Program (SLCAP)), Case Study 2 (Southeastern Idaho Community Action Agency (SEICAA)), Case Study 3 (Community Action, Inc. (CAI)), and Case Study 4 (United Planning Organization (UPO)).

HHS Block Grant Regulations

- HHS block grant regulations establish that the federal government will generally defer to a state's interpretation of the federal CSBG Act. **True or False**
- Apply to all block grants issued by the U.S. Department of Health and Human Services (HHS)
- 45 C.F.R. Part 96
 - Subpart I specifically applies to CSBG funding

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OCS Guidance

- Guidance issued by the federal Office of Community Services (OCS) in the form of Information Memoranda (IMs) may create new legal requirements that are automatically binding on CAAs. **True or False**
- OCS IM 82 provides guidance to tripartite boards regarding
 - Composition requirements
 - Role and responsibilities

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State CSBG Act and Regulations

- CAAs must maintain compliance with state CSBG statutes and regulations, if they exist.

True or False

- May contain board requirements
 - Ex., terms and/or term limits, residency
- CSBG Organizational Standards
 - Standards from OCS IM #138
 - Some standards specifically address board composition and responsibilities

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CSBG Organizational Standards Resources

www.communityactionpartnership.com and www.caplaw.org

The collage displays various resources for CSBG Organizational Standards. On the left, two book covers are shown: one for private organizations and one for public CEEs, both developed by the Center of Excellence (COE). In the center, a video player shows a presentation titled 'Standards for Boards Introduction'. On the right, a screenshot of the CAPLAW website is visible, featuring a list of standards and a navigation menu.

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CSBG Grant Agreement/Contract

- CSBG grant agreements/contracts are usually non-negotiable. **True or False**
- Contract/agreement should include citations or references to the state and federal CSBG requirements that apply to the board
 - Ex., tripartite composition requirement as set forth in the federal and, if exist, state CSBG laws

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Other Funding Source Requirements

- Federal CSBG Act governance requirements will override other federal funding source governance conference if the two conflict. **True or False**
- Examples of other funding sources with governance requirements:
 - Head Start board composition, conflicts of interest and specific responsibilities
 - Community Housing Development Organization (CHDO) board composition

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A Few Brief Points About How a Board of Directors Operates

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Scenario One

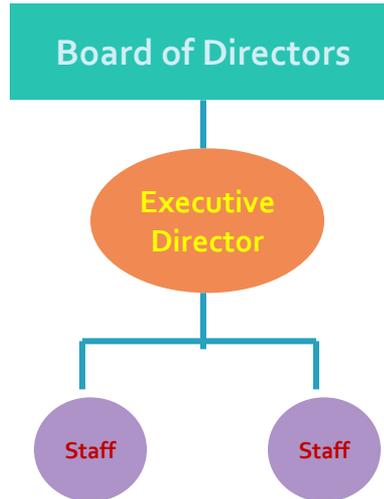
Even though CAA board member Shelia is really proud of all the amazing work the CAA does in the community, she recently became concerned about employee wages at the CAA. After reading an article in the local newspaper about nonprofit employees facing the same financial challenges as the clients they serve, Shelia contacted the CAA's Human Resources Coordinator and asked to see the salaries for all CAA employees.

Do you agree with Shelia's approach? Why or Why not?

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Operation Framework

- The board acts only as a body
 - Opportunity for group discussion and deliberation is important
- Sole employee of the board is the executive director



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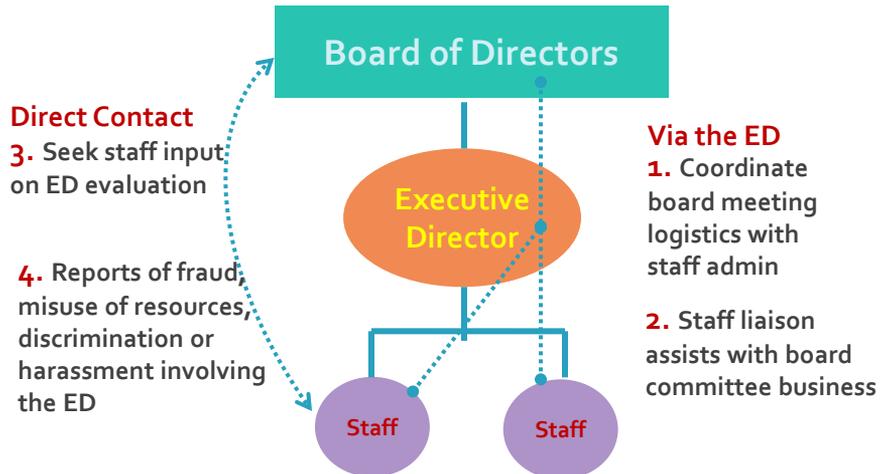
Operation Framework

- Individual board members only act on behalf of the board:
 - When authorized by the full board to do so **AND**
 - Officers, committees
 - Typically, via the executive director
 - **Caveat:** a few exceptions exist

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Board Member/ Staff Contact

EXAMPLES

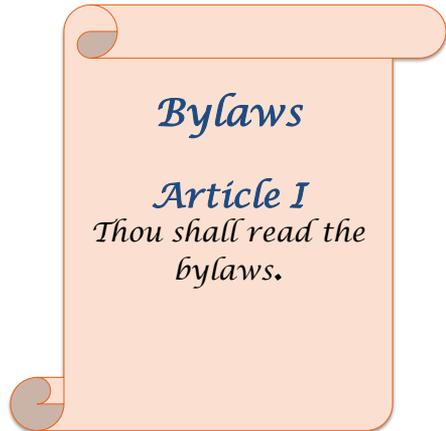


Scenario Two

Tony has been on the board for two years and L♥VES it! His fellow board members are very personable and friendly but Tony is continually confused about the vote that is required to take actions as well as the number of meetings board members are required to attend.

What should Tony do?

Board Operational Guide



- Bylaws serve as an organization's operational guide
- See bylaws for information about:
 - Board member composition
 - Meeting frequency, notice
 - Officers
 - Committees
 - Votes, quorum
 - And more. . . .

Board Committees: True or False

- A. An executive committee may have authority to act on behalf of the full board. T or F
- B. Most board decisions may be made in the executive committee and reported to full board. T or F
- C. Boards may use both standing and ad hoc committees. T or F
- D. Committees that solely make recommendations do not need to take minutes or record meetings. T or F
- E. Board approval is not required to seat either board members or non-members on committees. T or F

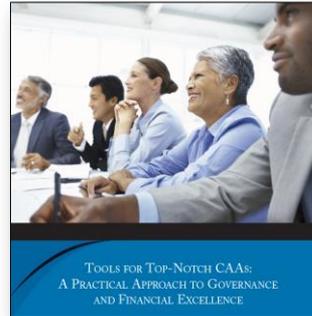
Board Committees

- Committee work is essential to smooth and efficient operation of board and CAA
- Most state laws permit board members to rely on information provided by committees
 - But board members must have a reasonable basis for believing that committee is competent source of information
- Regular review of committee structure is recommended

Role of Tripartite Board

Nonprofit Board Members' Fiduciary Duties

- **Duty of Care – Be Diligent**
 - Acting with the care of a prudent person in similar circumstances
 - Asking hard questions
 - Reading materials
 - Deliberating the decision



See page 9 of the
Toolkit for more on
fiduciary duties

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Scenario Three

The board is considering whether to begin an afterschool college prep program. Its board chair asks board members, Larry, Marsha, and Devon to review the staff's preliminary research and make a recommendation to the full board on the program's potential impact and financial viability.

As a committee, they examine proposed budgets, a needs assessment, staffing and training requirements, and survey data from CAAs with similar programs. They question staff and then prepare a 10-page report for the full board, recommending the program. At its next meeting, following a 90-minute discussion, the board unanimously votes to fund the program.

Unfortunately, after a year, the program is much more expensive than the initial projections and youth participation lower than expected. The board has no choice; it must end the program.

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Duty of Care

- **Did the board fulfill its duty of care? If yes or no why?**

- **Board committee tasks**

- Review mission
- Review needs assessment
- Examine proposed budgets
- Assess staffing and training requirements
- Collect data from others with similar programs
- Question staff
- Prepare report for the full board, with a recommendation

- **Full board:**

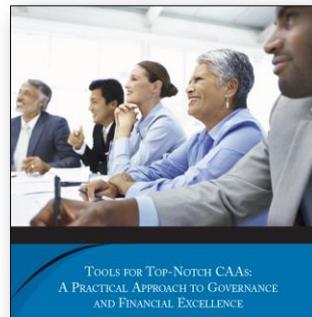
- Engages in discussion prior to vote

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Nonprofit Board Members' Fiduciary Duties

- **Duty of Loyalty – Be Faithful to CAA**

- Act in good faith and in the best interests of CAA
- Disclose and avoid conflicts of interest
- Not engage in self-dealing



See page 9 of the Toolkit for more on fiduciary duties

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Scenario Four

- **Do any of the following examples present a duty of loyalty dilemma? If yes or no, why?**
 - A. An elected public official board member votes only for programs that support the constituents he represents which make-up 1/3 of the CAA's service area
 - B. A private sector board member's neighbor is a real estate agent and has offered to help the CAA find a new facility for a reduced fee
 - C. A low-income representative sits on the board of another social service provider that sometimes competes for the same grants the CAA is seeking

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Duty of Loyalty

- **Conflict of interest policy**
 - Protects CAA
- **Applicable requirements**
 - Funding source requirements
 - **Examples:** CSBG Organizational Standard 5.6, Head Start Act prohibited financial conflict of interest, Office of Management and Budget (OMB) Uniform Guidance
 - Form 990

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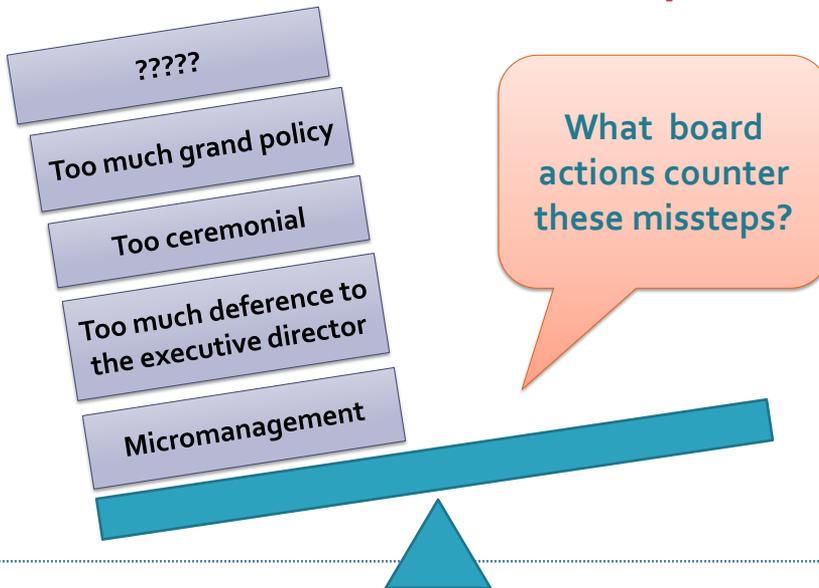
Who Does What Around Here?

FILL IN THE ACTION

Responsibility	Board of Directors	Executive Director
Policy Action: establish, execute	Establishes	Executes
Org. Mission Action: set, accomplish, review, update	Sets, Reviews, Updates	Accomplishes
Performance Targets Action: set, review, guide, work, update	Sets, Reviews, Updates	Guides work to achieve targets
Org. Performance Action: execute, accountable for, evaluate	Evaluates, Accountable for	Executes, Evaluates, Accountable for
Employees Action: supervise executive director, supervise staff	Supervises executive director only	Supervises staff

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Common Board Missteps



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Key Responsibilities of the Tripartite Board

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Key Board Responsibilities

Mission

Planning

Engagement

Revenue

Performance

Accountability

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Key Board Responsibility

Mission

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Know Your Mission Exercise

1. **Write down your organization's mission**
 - If you don't know it exactly, write down the gist
2. **Briefly describe 3 ways in which your board works with your organization's mission**
 - For example, we discuss it in relation to new proposals or recite it at every meeting
3. **Think about 1 way in which your board could better incorporate the CAA's mission in its board meetings and activities**

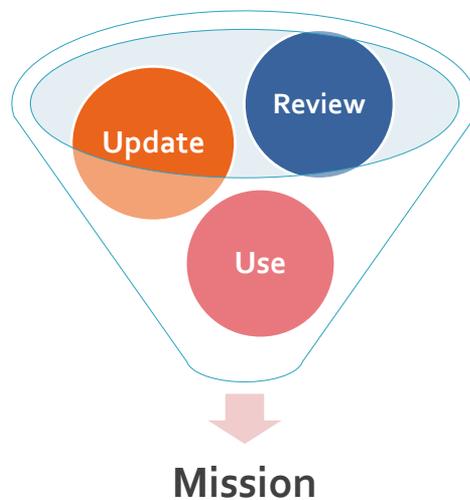
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Why Mission Matters!

- Why do you think mission matters?
- Why mission matters:
 - Provide clarity of purpose to stakeholders
 - Guide major decisions
 - Prevent “mission creep”

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Board Role and Mission



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Review Mission

- **A good mission statement:**
 - Is focused
 - Solves unmet needs
 - Leverages unique skills
 - Inspires key stakeholders / is memorable

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Update Mission

- **Producing an effective mission statement often involves:**
 - Commitment from the top
 - Participation by a wide range of stakeholders
 - A well defined revision process
 - Determination of key components
 - Careful crafting – active, concise, specific

CAPLAW Article

*Mission Possible:
Understanding &
Developing an Effective
Mission Statement*

http://caplaw.org/resources/articlesbytopic/Governance/CAPLAW_EffectiveMissionStatement_Fall2010.pdf

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Mission Revision Exercise

Your organization has died and at the memorial service for the organization with all of its stakeholders present, a spiritual leader states:

Here lies [*fill in the organization's name*]. It is an organization that was loved and will be missed. It will be remembered forever for:_____.

- Dr. Lisa McNary, NCSU

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Use Mission

- Ways boards highlight and use the mission:
 - Recite at board meetings
 - Reference in meeting agenda
 - Include on business cards
 - Discuss in relation to all board actions

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CSBG Mission Requirements

CSBG Org. Standard 4.1:

- Governing board has reviewed the organization's mission statement within the past 5 years and assured that: (1) The mission addresses poverty; and (2) The CAA's programs and services are in alignment with the mission.

CSBG Org. Standard 3.1:

- Organization has conducted a community assessment and issued a report within the past 3 years.

CSBG Org. Standard 3.5:

- Governing board formally accepts the completed community assessment.

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Key Board Responsibility

Planning

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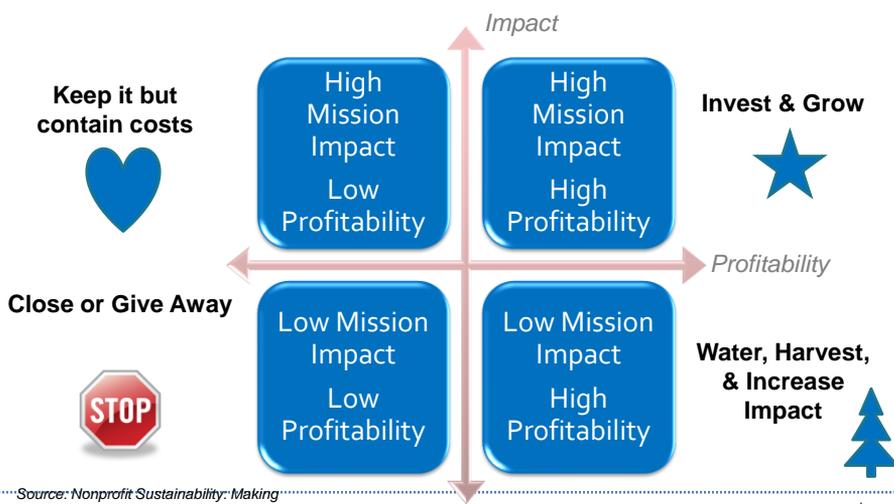
Engage in Planning

Regular Strategic and Programmatic Reviews

<p>5-Year Review (Strategic)</p>	<p>3-Year Review (Strategic / Community Needs Assessment)</p>	<p>Annual Review (Milestone / Programmatic)</p>	<p>Review at Every Board Meeting (Milestone / Programmatic)</p>
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A Dual Bottom Line: Mission Impact and Financial Return



Source: Nonprofit Sustainability: Making Strategic Decisions for Financial Viability

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CSBG Planning Requirements

CSBG Org. Standard 6.1:

- Organization has an agency-wide strategic plan in place that has been approved and accepted by the governing board within the past 5 years.

CSBG Org. Standard 6.5:

- Governing board has received update(s) on progress meeting the goals of the strategic plan within the past 12 months.

CSBG Org. Standard 5.9:

- Organization's governing board receives programmatic reports at each regular board meeting.

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Key Board Responsibility

Engagement

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Engage the Community

- Are we fully engaging and empowering the low-income community?
- Are we effective advocates for the organization and its mission?
- Do we collect and provide input on community needs?
- Are we developing and sustaining strategic partnerships and collaborations?

CSBG Community Engagement Requirements

Standard 1.1: Nonprofit/Public

- Org./dept. demonstrates low-income individuals' participation in its activities.

Standard 2.1: Nonprofit/Public

- Org./dept. has documented or demonstrated partnerships across the community, for specifically identified purposes; partnerships include other anti-poverty orgs in the area.

Standard 2.3: Nonprofit/Public

- Org./dept. communicates its activities and its results to the community.

Key Board Responsibility



Revenue

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Develop Revenue Strategies that Align with Mission

- **Ensuring Financial Viability:**
 - Work with staff to develop a plan for:
 - Diversifying funding sources
 - Ensuring financial sustainability
 - Oversee implementation of the plan
 - Develop community relationships:
 - Funders
 - Partner organizations
 - Donors

Key Board Responsibility

Performance

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Measure and Manage Performance

- **Performance measurement:** How will we know if we are meeting the community needs we've prioritized?
 - What metrics matter?
 - What data will we need to capture?
- **Performance management:** How can we improve our program outcomes, quality, and cost effectiveness?

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CSBG Performance Measurement and Management Requirements

Standard 1.3: Nonprofit/Public

- Org./dept. has a systematic approach for collecting, analyzing, and reporting customer satisfaction data to the governing/advisory board.

Standard 4.4: Nonprofit/Public

- Governing/advisory board receives an annual update on the success of specific strategies included in the Community Action plan.

Standard 9.3: Nonprofit/Public

- Org./dept. has presented to the governing/advisory board for review or action, at least within the past 12 months, an analysis of the agency's outcomes and any operational or strategic program adjustments and improvements identified as necessary.

Key Board Responsibility

Accountability

Ensure Accountability

- Hire, oversee and evaluate CEO
- Cultivate a culture of compliance and ethics
 - Code of ethics, conflict of interest policies
- Policies and procedures to ensure compliance with laws and funding source requirements
- Internal controls
- Policies and procedures for reporting and addressing grievances /misconduct and protecting whistleblowers

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Ensure Accountability

- Personnel Policies
- Organization-Wide Risk Assessment
- Organization-wide budget
- Financial Reports
- Audit
- Financial Policies
- Procurement Policy
- Insurance
- Annual filings and public disclosures

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EVALUATIONS

The Partnership Wants Your Feedback!



Please be sure to **complete** the evaluation
for this session **online**,
via the **CAPCON18 Event App**.

Thanks in Advance for your Cooperation!