

Technical Assistance Guide Category Five: Board Governance



Presented by:

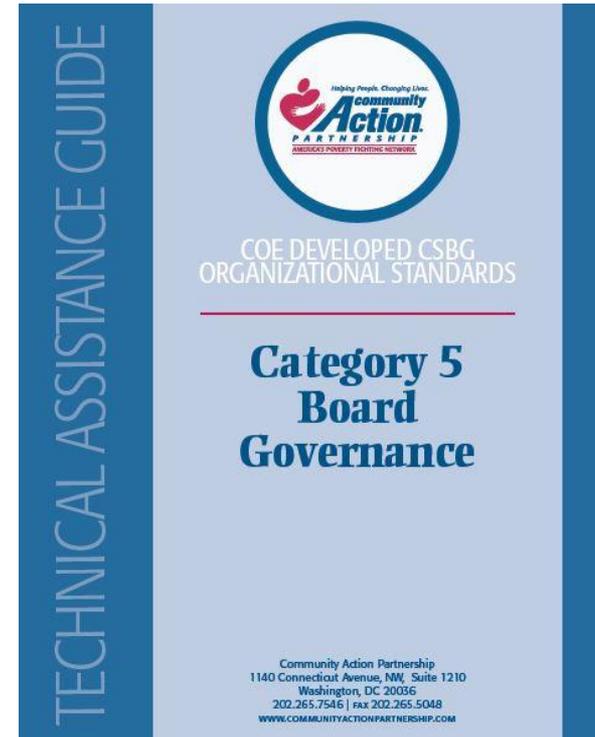
Denise Harlow, CCAP
Community Action Partnership
1140 Connecticut Ave, NW, Suite 1210
Washington, DC 20036
jcrocker@communityactionpartnership.com

This publication was created by the National Association of Community Action Agencies – Community Action Partnership, in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Grant Number 90EQ0231, 90ET0437, and 90ET0428. 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.



Agenda

- Overview of the TA Guide
- Guidance on conducting the review process
- Discussion of Standards 5.1-5.9
- Questions



Overview of TA Guide Structure

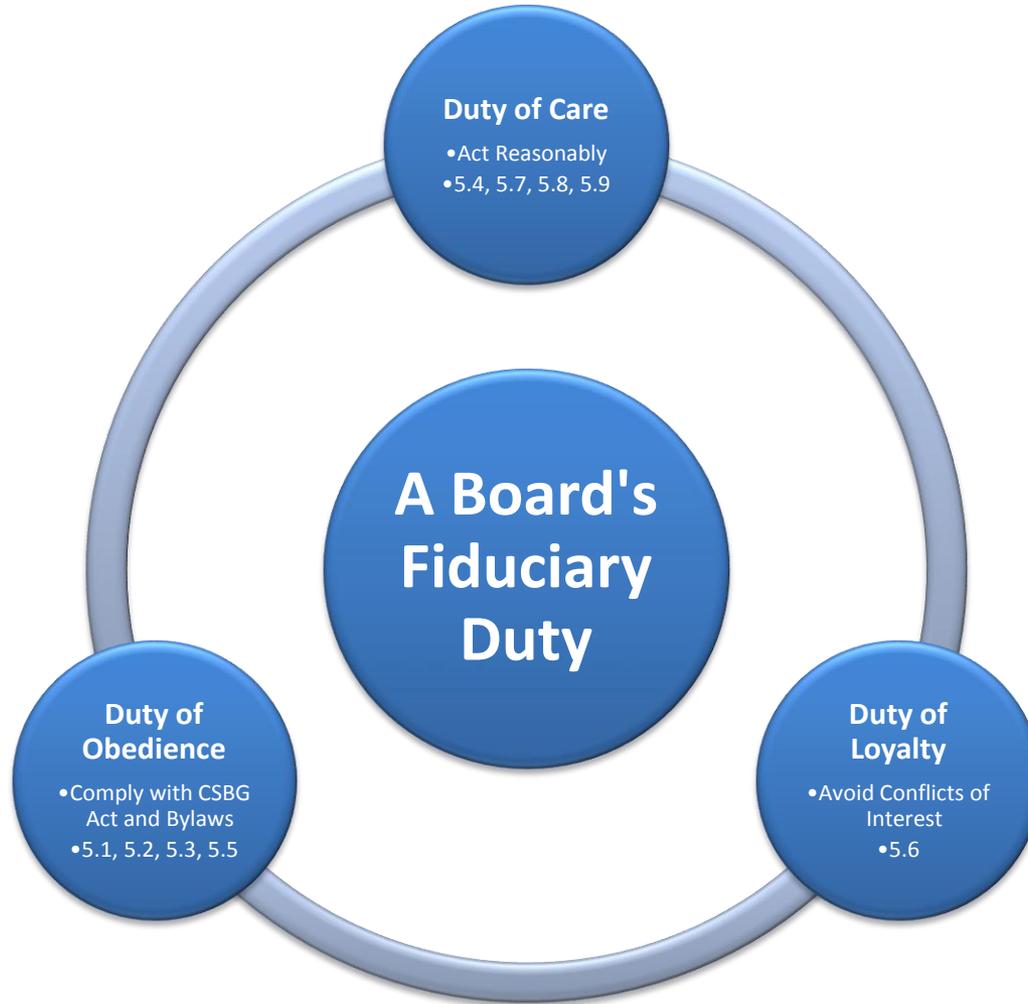
Purpose of the Guide is to:

- Assist with definition, intent, and documentation of the Standards
 - Section A covers definition and intent
 - Section B covers interpretation and documentation
- Provide resources to go “beyond compliance”
 - Section C provides information on going beyond compliance toward excellence.
 - Section D provides resources

Considerations for the review process

- Make sure the review process for Category Five is connected to reviews for other standards. Many standards in other categories include governance requirements.
- Look for opportunities to connect the review process into ongoing agency activities
- Consider including a team of staff
- Ensure the team knows how to assess compliance
- Use uniform documentation processes
- Set up a process for managing recommendations
- Ensure uniform processes for archiving reviews

Category Five Standards Address the Board's Duties

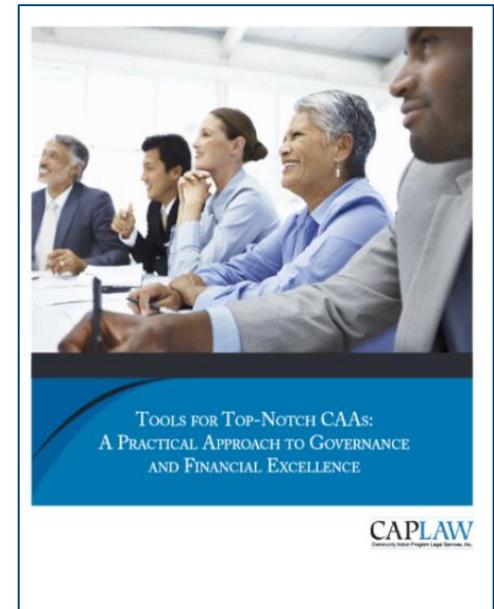


Many Other Categories Intersect with Board Governance



Critical Resources for Category Five

- CAPLAW's *Tools for Top-Notch CAAs: A Practical Approach to Governance and Financial Excellence*
- CAPLAW's *Bylaws Toolkit: The Rules CAAs Live By*
- CAPLAW's *Exemplary Legal Practices & Policies Guidebook (Part I and II)*
- OCS Information Memorandum 82



Standard 5.1

- Standard 5.1 The organization's governing board is structured in compliance with the CSBG Act:
 1. At least one third democratically-selected representatives of the low-income community;
 2. One-third local elected officials (or their representatives); and
 3. The remaining membership from major groups and interests in the community.

5.1 Guidance on Definition and Intent of the Standard

- The Tripartite Board is not new for CAAs
- Embedded in the CSBG Act and IM 82
- Embodies Maximum Feasible Participation

5.1 Guidance on Compliance and Documentation

- Bylaws
- Board Membership List
- Board Minutes
- Board numbers in any one category may fluctuate at times given board turnover
- Fill seats in an appropriate time frame

Standard 5.2

- Standard 5.2 The organization's governing board has written procedures that document a democratic selection process for low-income board members adequate to assure that they are representative of the low-income community.

5.2 Guidance on Definition and Intent of the Standard

- Grounded in the CSBG Act, not new
- Note it is “democratically selected”, not elected
 - Once a potential board member is selected, that individual will still need to be elected and seated to the board following the CAA’s bylaws and board policies.
- According to IM 82 “the implicit intent of this requirement is to insure that those who currently live in areas served by the agency are represented so that they have a strong voice in agency governance and direction and are able to convey to those they represent the presence and significance of community action in their lives.”

5.2 Guidance on Compliance and Documentation

- Documentation may include the written policy itself, board policy or procedure manual, bylaws, minutes, etc.

Examples Include:

- Election by ballots cast by the CAA's clients and/or by other low-income people in the CAA's service area
- Vote at a community meeting of low-income people;
- Petition signed by a certain number of residents in a low-income community; and
- Designation of community organizations composed predominantly of and representing low-income people in the service area (for example, a Head Start policy council, low-income housing tenant association, or the board of a community health center) to elect members to the CAA's board or whose boards will choose someone from among their elected officers/board members to serve on the CAA's board.

Taken in part from CAPLAW's Tools for Top-Notch CAAs

Standard 5.3

- Standard 5.3 The organization's bylaws have been reviewed by an attorney within the past 5 years.

5.3 Guidance on Definition and Intent of the Standard

- Bylaws are a critical governance document
- Board members are not expected to be experts on state nonprofit law. With bylaws being the legal “rules of the road” for board and CAAs, it is critical that they comply with state law, the CSBG Act, and other relevant rules and regulations.

5.3 Guidance on Compliance and Documentation

- A copy of the invoice for review services
- A letter from the attorney stating a review was completed
- A copy of the review from the attorney.
 - *Note the review itself belongs to the CAA and is a private document. The review itself should not have to be shared with the State CSBG Office in order to document meeting the Standard, though a CAA may choose to do so.*
- Board minutes documenting the board's discussion of the review

Frequently Asked Questions

- *Can we use an attorney who sits on our board to conduct the review?* There is nothing in the Organizational Standard to prohibit this; however, an attorney who sits on the board may not be willing to sign off on a formal review. However they can:
 - Conduct the initial review and prepare the bylaws for a more expedited review by an outside attorney;
 - Chair a committee tasked with their review;
 - Provide connections to other attorneys who may be willing to conduct the review; and
 - Offer to review the bylaws of a neighboring CAA that may have an attorney on their board willing to reciprocate.
- *Can we use an attorney on staff?* Again, there is no prohibition in the Organizational Standard and this would be allowed. See question above for other types of involvement.
- *We are located in a rural community, making attorneys hard to find. Any thoughts?* Consider working with your Community Action State Association to leverage an attorney for several CAAs in your state/region. Technology may make it easier than in years past to contract with attorney outside of your community, and having several CAAs joining together may assist with cost. There is no requirement that the CAA needs to meet in person with the attorney and the work can be done by phone and email.
- *Is there a tool to help us get started?* Yes, CAPLAW's Bylaws Toolkit is a great resource for CAAs with clause descriptions and considerations.

Standard 5.4

- Standard 5.4 The organization documents that each governing board member has received a copy of the bylaws within the past 2 years.

5.4 Guidance on Definition and Intent of the Standard

- Board actions that take place that are not in line with the bylaws are not valid and can be called into question both in practice, and legally. It is important that CAAs both establish bylaws that meet the needs of the organization and ensure that board members and staff are knowledgeable of the processes laid out in the bylaws.
- This Standard is limited to receipt of the bylaws only

5.4 Guidance on Compliance and Documentation

- Board members need to receive a copy of the CAA's bylaws at least every two years. The copy can be in hard copy format or distributed electronically.
- Acknowledgement of receipt can be done in several ways including but not limited to:
 - Sign in list completed when Bylaws are distributed at a board meeting
 - Email confirmation of receipt
 - Board minutes documenting their distribution and noting those in attendance

Standard 5.5

- Standard 5.5 The organization's governing board meets in accordance with the frequency and quorum requirements and fills board vacancies as set out in its bylaws.

5.5 Guidance on Definition and Intent of the Standard

- Board members need to comply with agency bylaws
- The number of board meetings may be noted in the bylaws; a board may meet more frequently but not less
- A quorum needs to be in place for business to occur

5.5 Guidance on Compliance and Documentation

- Board minutes
- Board rosters
- Bylaws

Standard 5.6

- Standard 5.6 Each governing board member has signed a conflict of interest policy within the past 2 years.

5.6 Guidance on Definition and Intent of the Standard

- As a fiduciary, a board member must put the interest of the CAA ahead of its own and avoid conflicts of interest
- No particular conflict of interest policy template is required by the Standards
- A conflict of interest policy must be signed by board members (at minimum) every two years

5.6 Guidance on Compliance and Documentation

- Collect signed copies, keep on file at CAA
- Review CAPLAW's Tools for Top-Notch CAAs for key provisions of a good policy
- See also, IM 82 for guidance

Standard 5.7

- Standard 5.7 The organization has a process to provide a structured orientation for governing board members within 6 months of being seated.

5.7 Guidance on Definition and Intent of the Standard

- Board orientation is a critical element of bringing a new CAA board member up to speed.
- Community Action board service is challenging as most CAAs have numerous funding streams, complex financial statements, and intensive reporting requirements when compared to other nonprofits in local communities.
- Even board members who have served on many other nonprofit boards can find CAA board service to have a significant learning curve.

5.7 Guidance on Compliance and Documentation

- There is no specific curricula requirement, or training methodology required for new board member orientation.
- New board members need to be informed of the orientation and encouraged to attend.
- It is challenging to mandate activities for volunteers and while most CAAs board members will participate in provided new board orientation, it is not appropriate for a CAA to be considered out of compliance with the Standard if a board member chooses not to participate in the offered orientation.

Orientation Suggestions

- In-person Orientation Session (*or virtual through web meetings, videos, etc.*)
 - Tour of CAA Facility
 - Review of Board Handbook of Materials
 - Meet with Board Chair and ED/CEO to review documents and procedures
- Board Handbook of Materials
 - Critical info and background on CAA
 - Written Job descriptions/expectations for board members and officers
 - Articles of Incorporation and bylaws
 - List of Board Members
 - Committee List, including committee chairs and members
 - Meeting dates
 - Annual report, organizational chart/list of agency programs and main funding sources
 - Audited financial statements, IRS Form 990, current financial statements
 - CSBG Act, IM 82, State CAA Act and regulations
 - Past Board Meeting Minutes (past two years)
- Mentoring by Experienced Board Members.

Standard 5.8

- Standard 5.8 Governing board members have been provided with training on their duties and responsibilities within the past 2 years.

5.8 Guidance on Definition and Intent of the Standard

- Ongoing training is vital for any position, especially one as important as a governing board member.
- IM 82 addresses board training and orientation and recommends that “Board members need to be trained to carry out both the legal, or fiduciary, aspects of their service and their leadership responsibilities to help guide the agency toward success.”
- The Standard’s intent is to give each CAA flexibility to provide training that its board needs.
 - May vary during the course of the year, be specific due to a current need such as the auditor visit, or be focused on preparing the board for future expansion.
 - There is not one required curriculum for board members to be trained on under this Standard

5.8 Guidance on Compliance and Documentation

- Training may be delivered at board meetings, special sessions, conferences, through electronic means, or other modalities as determined by the board. Training can be a stand-alone event, or part of other activities. Training can be broad in scope or focus on specific issues.
- Document through sign in sheets, copy of the curriculum used for training, board minutes documenting that training occurred with the names of those attending, registration and training materials from a conference that board members attended, links to recorded webinars the board viewed with an email from a board member stating they viewed the presentation.
- *As with orientation, volunteer board members may choose to not participate in these opportunities but attempts by the board and staff to ensure everyone had the opportunity to participate is critical.*

Standard 5.9

- Standard 5.9 The organization's governing board receives programmatic reports at each regular board meeting.

5.9 Guidance on Definition and Intent of the Standard

- Good board processes include programmatic reports that allow board members to stay abreast of program development, planning, implementation and evaluation activities and to provide input into the process.
- This Standard is not meant to be complex and does not require reporting on all programs at every board meeting.

5.9 Guidance on Compliance and Documentation

- The Standard does not require a report on each program at every board meeting; however it does call for some level of programmatic reporting at every board meeting.
- Organizations determine their own process to report programs to the board. For example, some organizations may cycle through their programs semi-annually, others may do so on a quarterly basis, and yet others may do a brief summary at every board meeting.
- Board minutes that reflect that programmatic reports have been provided and received by the full board would suffice as documentation. Programmatic reporting may be in writing (reports, dashboards) and/or be presented verbally.
- A Program Committee of the board is not required (and many CAAs have one in place) but can be a good place to “house” thorough program reviews with summaries coming to the full board.

Assessment

- TA Guide includes agency assessment tool and scale to go beyond compliance.
- Designed for internal CAA use only; not as part of State Assessment.
- Results are for internal CAA use only to assist the CAA in planning future organizational development strategies.

	Documentation Used	Unacceptable	Unsatisfactory	Satisfactory	Advancing	Outstanding	Action to be Taken	Individual(s) Responsible	Target Date(s)
Standard 5.1 The organization's governing board is structured in compliance with the CSBG Act: 1. At least one third democratically-selected representatives of the low-income community; 2. One-third local elected officials (or their representatives) and; 3. The remaining membership from major groups and interests in the community.	•								
Standard 5.2 The organization's governing board has written procedures that document a democratic selection process for low-income board members adequate to assure that they are representative of the low-income community.	•								
Standard 5.3 The organization's bylaws have been reviewed by an attorney within the past 5 years.	•								

	Unacceptable	Unsatisfactory	SATISFACTORY	Advancing	Outstanding
Standard 5.1	Our bylaws do not reference the tripartite structure.	Our bylaws reference the tri-partite structure but the board does not reflect this.	The organization's governing board is structured in compliance with the CSBG Act: 1. At least one third democratically-selected representatives of the low-income community; 2. One-third local elected officials (or their representatives) and; 3. The remaining membership from major groups and interests in the community.	Our low income board seats are filled with people living in low-income communities, standing committees that have the power to act on behalf of the board (such as the executive committee) have a tripartite structure.	Our board and each standing committee reflect the tripartite nature of the board structure.
Standard 5.2	We do not have a written democratic selection process and the board does not have 1/3 of its membership coming from the low income community	We do not have a written democratic selection process but the board is seated with 1/3 being representatives of the low income community.	The organization's governing board has written procedures that document a democratic selection process for low-income board members adequate to assure that they are representative of the low-income community.	Our written procedure for selection is followed and reviewed by the board (or appropriate committee) every five years to assess its success and modified as needed.	Our written procedures are reviewed prior to each board election cycle to ensure that the process is inclusive and is reaching the intended low-income community.
Standard 5.3	It has been more than 10 years since our bylaws were reviewed by an attorney, or never reviewed by an attorney.	Our bylaws have been reviewed by an attorney in between 5-10 years ago.	The organization's bylaws have been reviewed by an attorney within the past 5 years.	Our bylaws have been reviewed by an outside attorney familiar with the state's nonprofit law within the past 5 years.	Our bylaws have been reviewed by an outside attorney familiar with the state's nonprofit law within the past 3 years.

	Unacceptable	Unsatisfactory	SATISFACTORY	Advancing	Outstanding
Standard 5.4	Our board members never received a copy of the bylaws.	Our board members received a copy at the start of their board services but have not received a copy in the past 2 years.	The organization documents that each governing board member has received a copy of the bylaws within the past 2 years.	All board members received a copy of our bylaws within the past two years and a board committee has reviewed them.	All board members received a copy of our bylaws within the past two years and the full board reviewed them at a board meeting.
Standard 5.5	Over the past year, our board met fewer times than required by the bylaws and made few if any attempts to fill board vacancies.	Our board met fewer times than required in the bylaws and/or our board filled vacancies, but outside of the length of time needed to fill them as outlined in our bylaws.	The organization's governing board meets in accordance with the frequency and quorum requirements and fills board vacancies as set out in its bylaws.	Our board's standing committees met periodically throughout the year. Our board filled vacancies in a timely manner.	Our board holds meetings for planning and training in addition to the meetings required by the bylaws. Our board uses its committees as a training ground for new board members and/or has cultivated a list of potential board members to fill seats as needed.
Standard 5.6	There is no record of our board members signing a conflict of interest policy.	Our board members have signed a conflict of interest policy but not in the past 2 years	Each governing board member has signed a conflict of interest policy within the past 2 years.	Our board members sign a conflict of interest policy annually and engage in board discussion on real and perceived conflicts.	Our board members and senior staff sign a conflict of interest policy every year and engage in board discussion on real and perceived conflicts at least annually, and as issues arise.

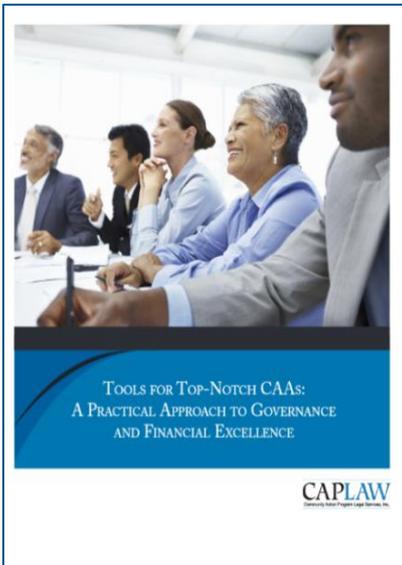
	Unacceptable	Unsatisfactory	SATISFACTORY	Advancing	Outstanding
Standard 5.7	Our CAA does not have a process for a new board member orientation	Our CAA has a process for new board orientation but there is no time period specified or it is longer than 6 months of being seated	The organization has a process to provide a structured orientation for governing board members within 6 months of being seated.	Our CAA has implemented the board orientation process as described for all new board members.	Our CAA implements a board orientation within 30 days of being seated.
Standard 5.8	There is no record of board training being provided in more than 10 years	Training has been provided to our board but not in the past two years.	Governing board members have been provided with training on their duties and responsibilities within the past 2 years.	Training has been provided in the past year. Our board members are given an opportunity to access additional training annually.	Structured training has been provided to all board members within the past year and our board provided an opportunity to attend Community Action related training events and conferences
Standard 5.9	Our board has not received a programmatic report in the past year.	Our board received programmatic reports periodically but not at each board meeting.	The organization's governing board receives programmatic reports at each regular board meeting.	Our board has received programmatic reports, addressing outcomes achieved, that have been thoroughly discussed in a program committee (or equivalent) meeting.	Our board received programmatic reports, addressing outcomes achieved, and can demonstrate continuous program improvement.

TA Guide

- Download and distribute as needed
- Copy and modify tool to meet your needs
- Use in conjunction with CSBG Organizational Standards Self Assessment Tool
- Access other resources such as...

TOOLS FOR TOP-NOTCH CAAs: A PRACTICAL APPROACH TO GOVERNANCE AND FINANCIAL EXCELLENCE

Section 1: Making Board Meetings Matter	7
Section 2: Improving a CAA's Financial Capacity	29
Section 3: Creating the Annual Operating Budget	67
Section 4: Getting the Most Out of Your Financial Statements	83
Section 5: Dealing with Conflicts of Interest	107
Section 6: Adopting a Whistleblower Policy	121
Appendices	135



Organizational Standards

Project Contacts



Jarle Crocker, PhD, Director of T/TA, Project Director - crocker@communityactionpartnership.com

Cashin Yiu, Special Assistant to the CEO/Program Associate- cyyiu@communityactionpartnership.com

Natalie Kramer, Program Support Specialist - nkramer@communityactionpartnership.com

Denise Harlow, CEO - धारlow@communityactionpartnership.com

Many of the publications, training, and webinars mentioned were created by the National Association of Community Action Agencies – Community Action Partnership, in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Grant Number 90ET0428, 90EQ0231, 90ET0434, 90ET0436, 90ET0437, and 90ET0445. Others were created by the 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 Grant Number 90ET0429 and 90SQ0047. 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.

