

# The Rules CAAs Live By

By *Joel L. Kaleva, Esq. and Eleanor A. Evans, Esq.*

© 2010 Community Action Program Legal Services, Inc.

This toolkit is intended to guide Community Action Agencies (CAAs) in understanding and revising their existing bylaws and articles of incorporation. It is written primarily for private, nonprofit CAAs; however many of the principles discussed can also apply to public CAAs. Public CAAs should keep in mind, however, that they are not governed by the state nonprofit corporation laws discussed in this toolkit but instead by state laws governing cities and counties.

An organization's bylaws should be treated as the operating manual for its board of directors. The bylaws set forth the everyday rules by which the organization is governed. Well-drafted bylaws should clearly set forth the manner in which the board of directors is selected, meets, votes, and delegates its authority to others.

In order to keep its designation as a CAA and to receive Community Services Block Grant (CSBG) funding, a CAA must comply with the requirements of the federal CSBG Act, which requires that the organization be governed by a tripartite board. Because of the tripartite board structure required by the CSBG Act, CAAs must include a number of provisions in their bylaws not found in a typical nonprofit's bylaws.

When drafting or revising their bylaws, CAAs should be sure to review the CSBG Act's tripartite board requirements. (To view



the codified version of the CSBG Act visit the "Resources" page on [www.capl原因.org](http://www.capl原因.org) and look under "Community Services Block Grant (CSBG) Resources"; see 42 U.S. Code section 9910 for the tripartite board requirements that apply to CAAs.) In addition, CAAs should check their state's CSBG law, regulations or other guidance issued by the state CSBG office, as these authorities often require CAAs to include certain provisions in their bylaws.

In March of 2005, the federal Office of Community Services (OCS) issued Information Memorandum No. 82 (IM 82) to provide OCS's interpretation of some of the CSBG Act's board requirements and recommendations on how CAAs can meet those requirements. Throughout this toolkit, we will point out OCS's recommendations as they are pertinent to the subjects being covered. (For a copy of IM 82, visit the

"Resources" page of [www.capl原因.org](http://www.capl原因.org) and look under "Community Services Block Grant (CSBG) Resources" for a listing of OCS IMs, including IM 82.)

Note that IM 82 is not law or binding authority for CAAs or the state CSBG offices; some of its recommendations may conflict with state laws that apply to a specific CAA. Each state has its own statutes that apply to nonprofit organizations, and these can vary from state to state. Thus, it is important for each CAA to closely evaluate the special rules that apply to it to ensure that its bylaws comply with both federal and state law requirements.

*Joel L. Kaleva, Esq.*, is a partner in the Missoula, Montana office of Crowley Fleck PLLP. Mr. Kaleva's practice focuses on counseling nonprofit organizations, including Community Action Agencies, about the complicated interplay among the different federal and state agencies that regulate the activities of these organizations. Mr. Kaleva may be reached by phone at (406) 523-3600 or by e-mail at [jkaleva@crowleyfleck.com](mailto:jkaleva@crowleyfleck.com).

*Eleanor A. Evans, Esq.* is CAPLAW's deputy director and senior counsel. Ms. Evans may be reached by phone at (617) 357-6915 or by email at [eevans@caplaw.org](mailto:eevans@caplaw.org).

This toolkit sets forth the primary issues that your CAA’s bylaws should address as well as some common ways in which nonprofit organizations and CAAs structure their governing documents (i.e., articles of incorporation and bylaws). Note that we have included some “drafting tips” to illustrate how other organizations have dealt with particular issues in their bylaws and articles of incorporation. However, recognize that these are not provided as templates or examples that are appropriate for all organizations. Differing state law requirements and individual circumstances in how you operate your organization will ultimately determine how your bylaws should be drafted. Therefore, we strongly recommend that you seek assistance from a qualified attorney in your state prior to amending your bylaws or articles.

**About CAPLAW**

Community Action Program Legal Services, Inc. (CAPLAW) is a nonprofit membership organization dedicated to providing the expert legal assistance that Community Action Agencies (CAAs) need to operate successfully under the various federal and state legislative and administrative requirements that apply to them in their efforts to reduce poverty, revitalize low-income communities, and empower low-income individuals and families to become fully self-sufficient.

Through its in-house legal staff and a network of private attorneys, CAPLAW offers legal consultations, publications, workshops and conferences. This assistance enables CAAs to operate legally sound organizations and to promote the effective participation of low-income people in the planning and delivery of CAA programs and services, thereby enhancing CAAs’ ability to provide the nation’s poor with opportunities to improve their quality of life and achieve their full potential.

For more information and a membership application, visit [www.capl原因.org](http://www.capl原因.org) or call (617) 357-6915.

**Table of Contents**

Hierarchy of Law, Governing Documents and Policies ..... 3

Review of Current Bylaws and Articles of Incorporation ..... 5

Articles of Incorporation Provisions..... 6

Bylaws Provisions ..... 9

    Name ..... 9

    Office/Principal Place of Business ..... 9

    Statement of Purpose ..... 9

    Authority of the Board of Directors ..... 9

    Number of Directors ..... 10

    Composition of Directors ..... 10

    Selection of Directors..... 11

    Petitions for Board Representation ..... 15

    Directors’ Terms and Term Limits ..... 15

    Removal of Directors ..... 16

    Resignation of Directors ..... 17

    Vacancies ..... 18

    Conflicts of Interest..... 18

    Compensation of Directors ..... 19

    Time and Place of Meetings..... 20

    Notice ..... 20

    Quorum and Voting Policies ..... 21

    Parliamentary Procedure ..... 22

    Participation by Telephone ..... 22

    Board Action without a Meeting..... 22

    Officers and Agents ..... 23

    Board Committees..... 25

    Fiscal Year ..... 28

    Execution of Instruments ..... 28

    Bonding ..... 28

    Indemnification of Directors and Officers ..... 28

    Amending the Bylaws ..... 29