

OCA Guide to Progressive Corrective Action up to and Including Rescinding Community Services Block Grant Designation and Awarding Funds to a New Entity

Intended as a comprehensive guide to the steps OCA must take when terminating organizational eligibility and awarding funds to a new eligible entity, this memo will list the requirements as outlined in the Community Services Block Grant Act¹, the Ohio Revised Code², and the Ohio Administrative Code³. In addition to the aforementioned documents, this guide will also draw heavily upon the Community Services Block Grant Program Information Memorandum (IM) 116⁴ which was developed to “ensure a consistent understanding of the legal requirements and procedures for termination... of funding to eligible entities...” Whenever possible, the source(s) of the information provided as part of this guide will be cited for reference.

| Community Services Block Grant Act (CSBG) | Ohio Revised Code (ORC) and Ohio Administrative Code (OAC) |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| Failure to comply with State Plan <ul style="list-style-type: none"> • Section 678 C (c) (1) (B) • Section 678 C (c) (2) | Agency not in compliance with ORC 122.69 |
| State documents and informs CAA of deficiency to be corrected and requires CAA to correct. <ul style="list-style-type: none"> • 678 C (a) (1) • 678 C (a) (2) | CAAs must correct identified deficiencies or they will lose funding <ul style="list-style-type: none"> • OAC 122:5-1-02(C) |
| State determines whether Technical Assistance (TA) is appropriate and either offers TA or does not (if deficiencies are determined too severe). <ul style="list-style-type: none"> • 678 C (a) (3) (B) • 678 C (a) (3) (A) | |
| State submits to HHS a report describing TA or a | |

¹ Community Services Block Grant Act http://www.acf.hhs.gov/programs/ocs/csbg/pdf/csbg_law_508.pdf

² Ohio Revised Code <http://codes.ohio.gov/orc>

³ Ohio Administrative Code <http://codes.ohio.gov/oac>

⁴ CSBG IM 116 <http://www.acf.hhs.gov/programs/ocs/csbg/guidance/im116.html>

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>report on why TA is not appropriate.</p> <ul style="list-style-type: none"> • 678 C (a) (3) | |
| <p><i>DISCRETIONARY:</i> State gives CAA 60 days to submit a Quality Improvement Plan (QIP) identifying plan for bringing agency into compliance. State has 30 days to determine if QIP is sufficient.</p> <ul style="list-style-type: none"> • 678 C (a) (4) | <p>CAAs will be allotted 90 days to correct the identified deficiency</p> <ul style="list-style-type: none"> • OAC 122:5-1-02(E) |
| <p>State provides adequate notice and opportunity for public hearing.</p> <ul style="list-style-type: none"> • 678 C (a) (5) | <p>State provide notice and hearing in compliance with Section 119.01 to 119.13 of ORC</p> <ul style="list-style-type: none"> • ORC 122.701 |
| <p>State Initiates proceedings to terminate designation.</p> <ul style="list-style-type: none"> • 678 C (a) (5) | <p>State may rescind designation of CAA for failure to comply with ORC 122.69</p> <p>-OR-</p> <p>State shall rescind designation of CAA upon notification of chief elected officials of more than ½ of municipal corporations in CAA service area that the agency is not endorsed by them and is not in compliance with Section 122.69 or ORC</p> <ul style="list-style-type: none"> • ORC 122.701 <p>Copy of letter rescinding endorsement must be received by OCA via certified mail. Without letter of rescission, designation will remain in effect.</p> <ul style="list-style-type: none"> • OAC 122:5-2-02 (A) |
| <p>Entity has 30 days following notification by the State of its final decision to request a review by Secretary of HHS.</p> <p>If request for review is made, State may not discontinue present or future funding until HHS responds. Requests for review must be received by HHS OCA within 30 days of notification of State decision.</p> <p>HHS has 90 days to respond to request.</p> <ul style="list-style-type: none"> • 678C (b) | <p>CAAs can appeal using the procedure outlined in the federal CSBG Act</p> <ul style="list-style-type: none"> • OAC 122:5-1-05(F) |
| <p>In event of termination of designation or reduction of proportional funding, state may solicit applications and designate a CSBG compliant (tripartite board, 676B) organization, agency, or appropriate political subdivision within or contiguous to the area.</p> <ul style="list-style-type: none"> • 676A | <p>An agency or organization that receives the endorsement of the chief elected officials of at least two thirds of municipal corporations and county(s) within the service area shall be designated as the CAA for the community it serves.</p> <ul style="list-style-type: none"> • ORC 122.69 |

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| -State cannot award funds until HHS confirms state findings or 90 day review period has passed. | |
| | Endorsement will be recognized upon OCA receiving via certified mail a copy of the notice of endorsement. <ul style="list-style-type: none"> • OAC 122:5-2-02 (A) |
| | OCA shall hold at least one public "meeting" within the service area to allow for public comments on services. <ul style="list-style-type: none"> • ORC 122.701 |
| Immediately following the first year of services, OCA must conduct an on-site review of the newly designated agency. <ul style="list-style-type: none"> • 678B (a) (2) | |

Relevant Citations:

ORC 122.69 Endorsement of Community Action Agency

(A) Any nonprofit agency or organization seeking designation as a community action agency by the office of community services shall obtain the endorsement of the chief elected officials of at least two-thirds of the municipal corporations and the counties within the community to be served by the agency or organization.

(B) Any nonprofit agency or organization that receives the endorsement provided for in division (A) of this section shall be designated by the office as the community action agency for the community it serves and shall receive community services block grant funds for any period of time that the nonprofit agency or organization.⁵

⁵ ORC 122.69 Endorsement of Community Action Agency <http://codes.ohio.gov/orc/122.69>

Proportional Share Requirements for Eligible Entities

The CSBG Act requires that as a part of the annual submission of an application and plan for CSBG funding, States must assure that any eligible entity in the State that received funding in the previous fiscal year through a Community Services Block Grant will not have its funding terminated, or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction. The CSBG Act also specifies that a State's determination is subject to Federal review by the Department of Health and Human Services.⁶

OAC 122:5-2-02 (A) Yearly Performance Assessments

(A) A nonprofit agency or organization shall be deemed to have obtained the endorsement of a chief elected official of a municipal corporation or county within the community to be served by the agency or organization when written notice of such endorsement is received by certified mail by the office of community services at the following address: "Office of Community Services, Ohio Department of Development, P.O. Box 1001, Columbus, Ohio 43216-1001." A copy of the notice of endorsement shall be provided by such chief elected official to the nonprofit agency or organization seeking designation as a community action agency. Notice of endorsement by a chief elected official of a municipal corporation or county of a nonprofit agency or organization seeking designation as a community action agency shall remain effective until a notice of rescission of endorsement is received by certified mail by the office of community services at the same address. A copy of the notice of rescission of endorsement shall be provided by such chief elected official to the nonprofit agency or organization seeking designation as a community action agency.⁷

⁶ IM 116 Proportional Share Requirements for Eligible Entities
<http://www.acf.hhs.gov/programs/ocs/csbg/guidance/im116.html>

⁷ OAC 122:5-2-02 (A) Yearly Performance Assessments <http://codes.ohio.gov/oac/122%3A5-2-02>

ORC 122.701 Designating New or Rescinding Former Designation

(A) Prior to designating a new community action agency or rescinding a community action agency's designation, the office of community services shall:

(1) Determine whether a community action agency is in compliance with section 122.69 of the Revised Code;

(2) Consult with the chief elected officials of political subdivisions located within a community action agency's service area, and, in designating a new community action agency, obtain their endorsement of the agency in accordance with division (A) of section 122.69 of the Revised Code;

(3) Hold at least one public meeting within a community action agency's service area for the purpose of allowing citizens to comment on the community action agency's delivery of services;

(4) Evaluate the proposed service area of the community action agency, and, as may be necessary, modify the boundaries of the service area so that low-income persons in the area are adequately and efficiently served.

(B) After providing notice and hearing pursuant to sections 119.01 to 119.13 of the Revised Code, the director of development:

(1) May rescind the designation of a community action agency if he finds that the agency is not in compliance with any or all of the provisions of section 122.69 of the Revised Code;

(2) Shall rescind the designation of a community action agency upon notification from the chief elected officials of more than one-half of the municipal corporations and the counties within a community currently served by a community action agency that such agency is not endorsed by them and upon a finding by him that the agency is not in compliance with section 122.69 of the Revised Code.

Any agency whose designation is rescinded pursuant to this section may appeal from an order rescinding such designation pursuant to section 119.12 of the Revised Code.⁸

⁸ ORC 122.701 Designating New or Rescinding Former Designation <http://codes.ohio.gov/orc/122.701>

ORC 119.01 (E) Administrative procedure definitions

(E) "Hearing" means a public hearing by any agency in compliance with procedural safeguards afforded by sections 119.01 to 119.13 of the Revised Code.⁹

ORC 119.13 Representation of Parties

At any hearing conducted under sections 119.01 to 119.13 of the Revised Code, a party or an affected person may be represented by an attorney or by such other representative as is lawfully permitted to practice before the agency in question, but, except for hearings held before the state personnel board of review under section 124.03 of the Revised Code, only an attorney at law may represent a party or an affected person at a hearing at which a record is taken which may be the basis of an appeal to court.

At any hearing conducted under sections 119.01 to 119.13 of the Revised Code, a witness, if he so requests, shall be permitted to be accompanied, represented, and advised by an attorney, whose participation in the hearing shall be limited to the protection of the rights of the witness, and who may not examine or cross-examine witnesses, and the witness shall be advised of his right to counsel before he is interrogated.¹⁰

⁹ ORC 119.01 (E) Administrative procedure definitions <http://codes.ohio.gov/orc/119.01>

¹⁰ ORC 119.13 Representation of Parties <http://codes.ohio.gov/orc/119.13>