

1 10 NCAC 97B.0401 is readopted with changes as published in 31:20 NCR 2032 as follows:

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3 **10A NCAC 97B .0401 GENERAL PROVISIONS**

4 Each applicant for programs funded under 10A NCAC 97C .0108(a)(1) ~~administered by the Office~~ shall provide
5 citizens with ~~an adequate~~ opportunity for meaningful involvement ~~on a continuing basis~~ and for participation in the
6 planning, implementation, evaluation ~~evaluation~~, and assessment of the program. The applicant shall:

- 7 (1) provide ~~adequate~~ information to citizens;
- 8 (2) hold a public hearing at the initial stage of ~~the~~ a multi-year planning process; process meeting
9 requirements of Rule .0402 (3), (4), and (5) of this Section;
- 10 (3) publish a notice of intent to file an application prior to the governing board's ~~approval~~, approval,
11 as specified in Rule .0402 of this Section and subsequent submission of the application to the
12 ~~Office~~; Division of Social Services;
- 13 (4) allow citizen participation on substantive amendments made pursuant to Rule 10A NCAC 97C
14 .0209 in the program; and
- 15 (5) provide an opportunity to comment on the applicant's performance.

16
17 *History Note:* Authority G.S. 143B-153(6); 143B-10; 143B-276; 143B-277; 143-323(d);
18 Eff. December 1, 1983;
19 Amended Eff. June 1, 1985; February 1, 1985; October 1, 1984;
20 Readopted Eff. November 1, 2017.

1 10A NCAC 97B .0402 is readopted with changes as published in 31:20 NCR 2032 as follows:

3 **10A NCAC 97B .0402 CITIZEN PARTICIPATION IN THE APPLICATION PROCESS**

4 Each applicant for programs funded by under 10A NCAC 97C .0108(a)(1) administered by the Office shall develop
5 and maintain procedures that meet the following requirements: that:

6 (1) Solicit and respond ~~in a timely and appropriate manner~~ to reviews and proposals of citizens, particularly ~~low-~~
7 income persons, members of minority groups, and resident areas poor persons, persons of ethnic
8 or racial minority, persons with disabilities as defined by the Americans with Disabilities Act
9 (ADA), and persons residing in the county or counties where activities are proposed. The ADA is
10 hereby incorporated by reference, including subsequent amendments and editions, and may be
11 accessed free of charge at <https://www.ada.gov>. Applicants shall respond in writing to written
12 ~~citizen comments objecting~~ objections to an application. The applicant shall consider written
13 objections made only on the following grounds:

14 (a) The applicant's description of the needs, ~~goals~~ goals, and objectives is ~~plainly~~
15 inconsistent with ~~available facts and~~ data related to the needs in the county or counties
16 where activities are proposed.

17 (b) The activities to be, or being, undertaken are ~~plainly~~ inappropriate to meeting the needs,
18 goals, and objectives identified by the applicant.

19 (c) The application does not comply with the requirements of this ~~Chapter~~ Chapter, State
20 laws and rules, or federal laws and regulations, or other applicable laws and regulations.

21 ~~Responses to the~~ The applicant shall respond to the party submitting the written objection ~~shall be made~~
22 within 10 calendar days of ~~receipt of the citizen comment.~~ receipt.

23 (2) Provide technical assistance to facilitate citizen participation, ~~where requested~~ when requested by
24 a citizen. The level and type shall be determined by the applicant.

25 (3) Provide adequate notices of public hearings ~~in a timely manner and in such a way as to make them~~
26 accessible and understandable to all citizens. A notice of the public hearing shall be given once a
27 week for two successive calendar weeks in the non-legal section of a newspaper having general
28 circulation in the ~~area~~ county or counties where activities are proposed. All notices shall be prior
29 to the public hearing and ~~The notice~~ shall be published the first time not less than 10 days nor
30 more than 25 days before the date fixed for the hearing.

31 (4) Schedule public hearings at the initial stage of a multi-year planning process to obtain citizen
32 views and to respond to citizen proposals at times and locations ~~which~~ that permit ~~broad~~
33 participation, particularly by ~~low-income persons, members of minority groups, handicapped~~
34 ~~persons, and residents of project areas.~~ poor persons, persons of ethnic or racial minority, persons
35 with disabilities as defined by the ADA, and persons residing in the county or counties where
36 activities are proposed.

1 ~~(5)~~ Conduct at least one public hearing at the initial stage of the a [multi year] planning process to
2 allow citizens the opportunity to express views and proposals.

3 ~~(6)~~ (5) Publish a notice of intent to file an ~~application,~~ application ~~at least~~ no less than one time in the
4 non-legal section of a ~~newspaper,~~ newspaper having general circulation in the ~~area~~ county or
5 counties where activities are proposed, no less than 10 calendar days prior to final approval by the
6 recipient's governing board. The notice shall specify the time and place the governing board shall
7 meet to consider adopting a resolution ~~(as required by Rule .0203(2)(b) of this Subchapter)~~ as
8 required by Rule .0203(2)(b) of this Subchapter to approve the application. The notice shall
9 contain a description of the activities to be undertaken and the amount of funds requested in the
10 application.

11 ~~(7)~~ (6) Persons wishing to object to the approval of an application by the ~~Office~~ Division of Social
12 Services shall make such objection in writing. The ~~Office~~ Division of Social Services ~~will~~ shall
13 only consider objections made ~~only~~ on the following grounds:

14 (a) The applicant's description of the needs, goals, and objectives is ~~plainly~~ inconsistent with
15 ~~available facts and~~ data related to the needs in the county or counties where activities are
16 proposed.

17 (b) The activities to be undertaken are ~~plainly~~ inappropriate to meeting the needs, goals, and
18 objectives identified by the applicant.

19 (c) The application does not comply with the requirements of this ~~Chapter~~ Chapter, State
20 laws and rules, or federal laws and regulations, ~~or other applicable laws and regulations.~~

21 ~~(8)~~ (7) ~~All objections~~ Objections made under Items 1 and 6 of this Rule shall include ~~both~~ an
22 identification of the requirements not met and, in the case of objections made on the grounds that
23 the description of needs and objectives is ~~plainly~~ inconsistent with ~~available facts and~~ data related
24 to the needs in the county or counties where activities are proposed, the data supporting the
25 objection shall be included, ~~upon which the persons rely.~~

27 *History Note:* Authority G.S. ~~143B-153(6); 143B-10; 143B-276; 143B-277; 143-323(d);~~
28 *Eff. December 1, 1983;*
29 *Amended Eff. October 1, 1984;*
30 *Readopted Eff. November 1, 2017.*

1 10A NCAC 97B .0403 is readopted with changes as published in 31:20 NCR 2033 as follows:

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3 **10A NCAC 97B .0403 CITIZEN PARTICIPATION IN THE PROGRAM AMENDMENT PROCESS**

4 (a) Each grant recipient funded under 10A NCAC 97C .0108(a)(1) seeking to amend its plan shall respond to
5 citizen objections and comments in the same manner as set forth in Regulation Rule .0402(1) .0402 of this Section.

6 (b) All amendments ~~Amendments which~~ require prior Office Division of Social Services approval. ~~approval also~~
7 ~~may require a public hearing. After determination by the Office that a public hearing is required, it shall be held in~~
8 ~~accordance with Rule .0402(3) and (4) of this Section.~~

9 (c) The Division of Social Services shall notify the grant recipient in writing as to whether or not the amendment
10 request has been approved or disapproved. During review of the request, additional information may be required
11 from the grant recipient to ensure compliance with Rules 10A NCAC 97C .0204 through .0206.

12 (e) The Office may determine that a hearing is required if a program is substantially changed by:

13 (1) ~~A new or amended state or federal statute or regulation requires a new provision, or conflicts with any~~
14 ~~existing plan provision;~~

15 (2) ~~A court decision changes the interpretation of a statute or regulation;~~

16 (3) ~~The grant recipient proposes to add, significantly modify, or delete any project.~~

17 [(e)] (d) Grant recipients shall be required to complete [A] a public hearing prior to the Division of Social Services
18 approval of an amendment [shall be required] if:

19 (1) The grant recipient proposes an objective or activities not included in the original work plan;

20 (2) There is an increase or decrease of total funds requested in excess of an aggregate of [ten] 10 percent of
21 the total amount of the grant agreement; or

22 (3) There is a transfer of funds from the inception to the termination of the grant agreement between
23 projects in excess of an aggregate of five percent of the total amount of the grant agreement. [agreement;
24 and]

25 [(4) Public hearings shall be held in accordance with Rule .0402(3) and (4) of this Section.]

26 Public hearings shall be held in accordance with Rule .0402(3) and (4) of this Section.

27
28 *History Note:* Authority G.S. 143B-153(6); 143B-10; 143B-276; 143B-277; 143-323(d);

29 Eff. December 1, 1983;

30 Readopted Eff. November 1, 2017.

10A NCAC 97C .0104 is readopted with changes as published in 31:20 NCR 2033 as follows:

10A NCAC 97C .0104 DEFINITIONS

For the purpose of this Subchapter, the following definitions apply:

- (1) ~~Aet.~~ “Act” means ~~The the~~ Omnibus Budget Reconciliation Act of 1981, which is incorporated by reference, including subsequent amendments and editions, and available for free at <https://www.congress.gov/bill/97th-congress/house-bill/3982>, as amended, under which the Community Services Block Grant Program was established.
- (2) ~~Community Action Agency (CAA).~~ “Community Action Agency (CAA)” means ~~An~~ an agency officially designated and funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating an anti-poverty project and ~~which that~~ was funded by the North Carolina Office of Economic Opportunity in fiscal year 1985 to administer a Community Services Block Grant (“CSBG”) anti-poverty project or any agency designated ~~as such~~ by the Governor or his or her designee and determined to be eligible by the ~~Office.~~ Division of Social Services.
- ~~(3) Community Services Block Grant. [The] state administered Community Services Block Grant Program (CSBG).~~
- ~~(4) Limited Purpose Agency. An agency funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating projects for a specific target population, such as senior citizens, or for a specific program area, such as economic development and which was funded by the Office in fiscal year 1982 to carry out similar specific and limited projects.~~
- ~~(5) [(4)] (3) Local Administering Agency.~~ “Local Administering Agency” means ~~An agency funded by the Office to carry out programs in a single or multi county area. [Entities] entities carrying out activities that are referenced in [under] 42 U.S.C 9907(b)(1) [(A-H)]~~ which is incorporated by reference, including subsequent amendments and editions and are available for free at <https://www.gpo.gov/fdsys/pkg/PLAW-105publ285/pdf/PLAW-105publ285.pdf>. [which may include Community Action Agencies] Local Administering Agencies may include CAAs.
- ~~(6) [(5)] (4) OCS.~~ The Office of Community Services is “The Office of Community Services (OCS)” means the agency established in the U.S. Department of Health and Human Services and is charged with the responsibility of administering ~~CSBG. the program.~~
- ~~(7) [(6)] (5) Persons in poverty.~~ “Persons in poverty” means:
 - (A) For the purpose of the allocation of CSBG fund, persons in poverty is defined as the number of persons ~~who whose income fall~~ is below the poverty threshold established by the U.S. Census Bureau. Bureau of Census, U.S. Department of Commerce. The number of persons in poverty will be based on the most recent Small Area Income Poverty [Estimates] Estimates produced for school districts, counties, and states and released electronically by the U.S. Census [Bureau,] Bureau, and available at the time of allocation determination. The Small Area Income Poverty

1 Estimates is incorporated by reference, including subsequent amendments and editions and
2 available for free at www.census.gov. ~~available census data.~~

3 (B) For the purpose of program eligibility, persons in poverty is defined as the persons who fall
4 below the poverty guidelines updated periodically by the U.S. Department of Health and Human
5 Services, which are incorporated by reference, including subsequent amendments and editions and
6 available for free at www.hhs.gov and released by the Division for use. ~~established by the Office~~
7 ~~of the U.S. Office of Management and Budget.~~

8 (8) ~~(7)~~ (6) Quarter. "Quarter" means Each each three months during the life of a grant agreement with a
9 grant recipient.

10 (9) ~~(8)~~ (7) State Plan. "State Plan" means The the plan ~~which~~ that sets forth how the State of North
11 Carolina will use the funds allocated under CSBG.

12
13 *History Note:* Authority G.S. 143B-153(6); 143B-10; 143B-276; 143B-277; 143-323(d);

14 *Eff. December 1, 1983;*

15 *Temporary Amendment Eff. November 20, 1985, for a Period of 73 Days to Expire on February 1,*
16 *1986;*

17 *Amended Eff. March 1, 1989; February 1, 1986; June 1, 1985; October 1, 1984;*

18 *Readopted Eff. November 1, 2017.*

10A NCAC 97C .0106 is readopted with changes as published in 31:20 NCR 2034 as follows:

10A NCAC 97C .0106 ELIGIBLE GRANT RECIPIENTS

Eligible grant recipients for CSBG funds include:

- (1) ~~community~~ Community action agencies as defined in ~~(2) of Rule .0104 .0104(2)~~ of this ~~Section;~~ Section. ~~in~~ In any geographic area of ~~a state~~ the State not ~~presently~~ served by ~~an eligible entity a~~ CAA, the Governor may decide to serve ~~such a the~~ new area by:
 - (a) ~~requesting~~ Requesting an existing ~~eligible entity~~ CAA that is located and provides services in an area ~~contiguous to~~ bordering the new area to serve the new ~~area;~~ area.
 - (b) ~~if not~~ If no existing ~~eligible entity~~ CAA is located and provides services in an area ~~contiguous to~~ bordering the new area, requesting the ~~eligible entity~~ CAA located ~~elosest~~ closest to the area to be served or an existing ~~eligible entity~~ CAA serving an area within ~~reasonable proximity~~ of the new area that does not prevent the CAA to provide from ~~providing~~ services in the new ~~area;~~ or area.
 - (c) ~~where no existing eligible entity requested to serve the new area decides to do so,~~ designating Designating any existing ~~eligible entity,~~ CAA or any ~~[private,]~~ private non-profit organization ~~which that~~ has a board meeting the requirements of ~~Section 675(e)(3)~~ 42 U.S.C. 9910 ~~or any political suboffice of the state~~ to serve the new area. The Governor's designation of an organization ~~which that~~ has a board meeting the requirements of ~~Section 675(e)(3)~~ 42 U.S.C. 9910 or a political ~~suboffice~~ subdivision or public organization of the ~~state~~ State to serve the new area shall qualify ~~such the~~ organization as a CAA, eligible entity, ~~[entity; or]~~
 - (d) ~~[if]~~ If no ~~[private,]~~ private nonprofit organization is identified or determined to be qualified to serve the unserved geographic area as an ~~[eligible entity]~~ CAA, ~~[the Governor may designate an appropriate]~~ a political subdivision or public organization of the State may be designated to serve as an [eligible entity] CAA for the area. In order to serve as the [eligible entity] CAA for that area, the political subdivision or public organization shall have a board or other mechanism as required under [U.S.C. 42 9910 section 676B(b).] U.S.C. 42 9910.
- (2) ~~organizations serving seasonal or migrant farmworkers; and~~ Local Administering Agencies as defined in [(4) of] Rule .0104 of this Section
- (3) ~~limited purposes agencies as defined in (6) of Rule .0104 of this Section.~~

History Note: Authority G.S. 143B-153(6); 143-276; 143-323(d); 143B-10(b); 42 U.S.C. 9901-12;
Eff. December 1, 1983;
Amended Eff. March 1, 1989; October 1, 1984;
Readopted Eff. November 1, 2017.

10A NCAC 97C .0108 is readopted with changes as published in 31:20 NCR in 2034 as follows:

10A NCAC 97C .0108 ALLOCATION OF CSBG FUNDS

(a) Funds ~~allocated~~ allocated to North Carolina under the CSBG Program ~~will~~ shall be used in Federal Fiscal Year 1989 and in each subsequent federal fiscal year used as follows:

(1) ~~No less than Ninety 90 percent of the funds to make grants to those~~ No less than Ninety 90 percent of the funds ~~allocated for contracting with eligible grant recipients [Community Action Agencies] CAAs as defined in Rule .0106 (a) .0104(2) of this Section which that~~ are re-certified as eligible agencies each fiscal year by the Office, Division of Social Services. The amount of the funds allocated to each eligible grant recipient shall be based on the following method of distribution:

(A) Funds shall be allocated based on the ratio (percentage) of persons in poverty in the county (counties) served by the eligible agency CAA compared to the number of persons in poverty in the total area (counties) served by all eligible agencies, CAAs.

(B) ~~However, no~~ No eligible agency CAA shall receive less ~~than:~~ than whichever is higher:

(i) An allocation of one hundred twenty thousand dollars ~~(\$120,000); (\$120,000);~~
or

(ii) An allocation totaling eighty Eighty percent of the eligible agency's CAAs Federal Fiscal Year 1982 allocation, if the [agency] CAA has maintained designation for all counties it was designated in Federal Fiscal Year 1982, whichever is higher.

(2) Five percent or \$55,000, whichever is greater, of the funds ~~will~~ shall be used by the ~~Office~~ Division of Social Services for administration of the CBSG program.

(3) The remaining five percent of the funds ~~[will]~~ shall be allocated in accordance with the current State CSBG Plan ~~[strategy]~~ strategy, which will be made publicly available for free at www.ncdhhs/DSS . The Division of Social Services shall award no more than 40 percent of the total CSBG funds available under this allotment to a single Local Administering Agency as defined in Rule .0104 of this Section for activities that are referenced in 42 USC 9907 (b) (1). Funds not awarded to Local Administering Agencies for these activities shall be distributed in accordance with Subparagraph (a)(1) of this Rule. [may include:] ~~to make grants in Federal Fiscal Year 1989 and in each subsequent federal fiscal year to those limited purpose agencies as defined in Rule .0104 of this Section and which are re-certified as eligible agencies each fiscal year by the Office. The Office shall allot to each eligible Limited Purpose Agency an amount of funds based on the percentage of the total CSBG funds the eligible agency received of those funds reserved for the limited purpose agencies and the North Carolina Commission of Indian Affairs in federal fiscal year 1986.~~

~~[(A) — Providing training and technical assistance to those entities in need of such training and assistance;~~

(B) Coordinating State operated programs and services, locally operated programs and services, targeted to low income children and families with services provided by eligible entities and other funded organizations, to ensure increased access to services provided by the State of North Carolina or local agencies;

(C) Supporting statewide coordination and communication among eligible entities;

(D) Analyzing the distribution of funds made available in this Rule to determine if such funds have been targeted to the areas of greatest need;

(E) Supporting asset building programs for low income individuals, such as programs supporting individual development accounts;

(F) Supporting innovative programs and activities conducted by community action agencies or other neighborhood based organizations to eliminate poverty, promote self sufficiency, and promote community revitalization;

(G) Supporting State charity tax credits; or

(H) Supporting other activities, consistent with the purposes of this Rule.

Any funds granted to Local Administering Agencies under this Rule shall be awarded through a prescribed selection process, to include a review body established by the Division of Social Services. The review body shall be comprised of no less than five individuals selected by the Division and who shall have knowledge in the areas of poverty, grants management, fiscal operations, grants monitoring and grants compliance. Funds not awarded through the prescribed selection process will be distributed in accordance with Subparagraph (a)(1) of this Rule.

(b) Beginning with federal fiscal year 1988 and effective for all subsequent fiscal years, eligible agencies will not be allowed to carry forward unearned funds at the end of a grant agreement to the succeeding grant agreement. All unobligated funds must be returned to the Office Division of Social Services within 60 days after the closing out or termination of the grant agreement.

(c) Supplemental CSBG Grants. The preceding paragraphs Paragraphs (a) and (b) of this Rule do not apply to the allocation of supplemental CSBG grants to North Carolina. Such allocations to eligible applicants for eligible activities will shall be made by the Office Division of Social Services in a manner not inconsistent [which] that is compliant with federal guidelines and conditions laws and regulations on supplemental appropriations. The Office [Division of Social Services] has the flexibility to determine the number of grants awarded and the manner in which grantee(s) are selected based upon the amount of the allocation and the intent of the applicable legislation and regulations.

(d) Subject to requirements of 42 U.S.C. 9907, any funds distributed to a [Community Action Agency] CAA through grants made in accordance with Subparagraph (a)(1) of this Rule [which] that remain unexpended for a fiscal year shall be available to [such Community Action Agency] that CAA for obligation during that fiscal year and the succeeding fiscal year. Any unexpended allotment of CSBG funds from previous years grants shall be allocated to each eligible CSBG grant recipient for the following purposes:

1 ~~(1) — to assist in the implementation of special statewide initiatives, and~~

2 ~~(2) — for one time expenditures to enhance local programs.~~

3 Ninety percent of these funds will be distributed to Community Action Agencies based on the ratio of persons in
4 poverty in the county or counties served by the Community Action Agency compared to the number of persons in
5 poverty in the total area served by all eligible Community Action Agencies. ~~Ten percent of these funds will be~~
6 ~~distributed to those Limited Purpose Agencies as defined in Rule .0104 of this Section on an equal basis.~~

7 (e) Any unexpended funds aligned with Subparagraphs (a)(2) and (a)(3) of this Rule shall be distributed in
8 accordance with Subparagraph (a)(1) of this Rule for during that fiscal year or the succeeding fiscal year.

9
10 History Note: Authority G.S. ~~143B-153(6); 143B-227; 143B-276; 42 U.S.C. 9901-12;~~

11 Eff. December 1, 1983;

12 Amended Eff. June 1, 1985; February 1, 1985;

13 Temporary Amendment Eff. May 5, 1987 for a Period of 120 Days to Expire on September 1,
14 1987;

15 Temporary Amendment Eff. August 24, 1987 for a Period of 68 Days to Expire on November 1,
16 1987;

17 Amended Eff. November 1, 1987;

18 Temporary Amendment Eff. August 1, 1991 for a Period of 180 Days to Expire on January 28,
19 1992;

20 Amended Eff. March 1, 1989;

21 Readopted Eff. November 1, 2017.

10A NCAC 97C .0109 is readopted with changes as published in 31:20 NCR 2036 as follows:

10A NCAC 97C .0109 REQUIREMENTS/GOVERNING BODIES OF ~~PRIVATE~~ GRANT RECIPIENTS

(a) Each ~~eligible~~ private ~~non-profit~~ grant recipient funded under Rule .0108(a)(1) of this Section ~~must~~ shall have a board of directors consisting of at least 15 members and not more than 51 members.

(b) The board of directors of private non-profit grant recipients funded under Rule .0108(a)(1) of this Section shall be constituted so as to assure ~~that~~ compliance with 42 USC 9910(a)(2)(A) through (C), which is incorporated by reference, including subsequent amendments and editions and available for free at <https://www.gpo.gov/fdsys/pkg/PLAW-105publ285/pdf/PLAW-105publ285.pdf>.

~~(1) — one third of the members of the board are elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one third requirement;~~

~~(2) — at least one third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; and~~

~~(3) — the remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.~~

(c) Each public grant recipient funded under Rule .0108(a)(1) of this Section shall administer the community services block grant ~~[program through:]~~ in compliance with 42 USC 9910(b)(1) and (2), which is incorporated by reference, including subsequent amendments and editions and available for free at <https://www.gpo.gov/fdsys/pkg/PLAW-105publ285/pdf/PLAW-105publ285.pdf>.

~~[(1) — a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than 1/3 of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members:~~

~~(A) — are representative of low income individuals and families in the neighborhood served; and~~

~~(B) — reside in the neighborhood served; and~~

~~(C) — are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this subtitle; or~~

~~(2) — another mechanism specified by the State to assure decision making and participation by low income individuals in the development, planning, implementation.]~~

~~(e)~~ (d) All committees of the board of directors of private grant recipients funded under Rule .0108(a)(1) of this Section shall ~~fairly~~ reflect the tripartite and geographical composition of the board.

~~(d)~~ (e) In addition to the general powers granted under its ~~state charter~~ Articles of Incorporation, the board of directors of the private grant recipients ~~must~~ shall possess the following specific powers:

(1) to appoint the executive director of the agency;

(2) to determine ~~major~~ personnel, organization, fiscal, and program policies;

- (3) to determine overall program plans and priorities for the agency, including provisions for evaluating progress;
- (4) to make final approval of all program proposals and budgets;
- (5) to enforce compliance with all conditions of the Office's Division of Social Services grants; and
- (6) to oversee the extent and the quality of the participation of the poor in the program of the agency.

History Note: Authority G.S. 143B-153(6); 143B-276; 143B-277; 143-323(d); 143B-10; 42 U.S.C. 9901-12;
Eff. December 1, 1983;
Amended Eff. February 1, 1985; October 1, 1984;
Readopted Eff. November 1, 2017.

1 10A NCAC 97C .0111 is readopted with changes as published in 31:20 NCR 2036 as follows:

2
3 **10A NCAC 97C .0111 CITIZEN PARTICIPATION**

4 (a) Each grant recipient funded under Rule .0108(a)(1) of this Section is required to establish citizen participation
5 policy and procedures. Grant ~~recipients~~ recipients ~~are required to~~ shall hold public hearings to meet the requirements
6 of Rule .0401(5) of Subchapter 97B only during the initial planning when a new multi-year plan is to be developed.

7 (b) ~~The following special requirements on the Community Anti Poverty Plan (application for CSBG funds) shall be~~
8 ~~met. [Community action agencies]~~ CAAs funded under Rule .0108(a)(1) of this Section shall hold one public
9 hearing for review and comment in each county it serves prior to submission of the Community Anti-Poverty Plan to
10 the Division of Social Services. [Grant recipients funded under Rule .0108(a)(3) of this Section shall meet the public
11 review requirements by submitting a copy of their plan to the review body specified in Subparagraph (a)(3) of Rule
12 .0108 of this Section.]

13 (1) ~~Community action agencies shall meet the following requirements:~~

14 (A) ~~Submit their Community Anti Poverty Plan to their local board(s) of county commissioners in~~
15 ~~each county served by the agency for their review and comment prior to submission to the Office.~~
16 ~~County commissioners will be given 30 days to comment on the~~
17 ~~application.~~

18 (B) ~~Hold one public hearing for review and comment in each county it serves prior to submission~~
19 ~~of the Community Anti Poverty Plan to the Office.~~

20 (2) ~~Limited purpose agencies shall meet the public review requirements by submitting a copy of their plan~~
21 ~~to the State Clearinghouse, Department of Administration for review. Any comments from the State~~
22 ~~Clearinghouse shall be submitted to the Office by the applicant within 10 working days of receipt of the~~
23 ~~Work Plan.~~

24 (c) Each grant recipient ~~is~~ shall be responsible for establishing special procedures to ensure that the poor are able to
25 participate ~~meaningfully~~ in the decisions and activities of the grant recipient. These procedures shall include
26 provisions for:

27 (1) ~~Advance notice of and the agenda (an outline of matters to be considered)~~ Notification for any board or
28 committee ~~meetings. meetings to include the agenda items.~~ These shall be provided individually to all
29 members of the board and/or and committees in writing at least five days before the meeting. In addition,
30 notices should shall be given to the local public media and posted in all the grant recipient's neighborhood
31 and/or and community centers.

32 (2) ~~Adequate information~~ Information about standards of program effectiveness. This information shall be
33 given to persons in poverty ~~the representatives of the poor~~ to permit them to plan for and evaluate agency
34 programs and to set priorities for the use of funds and other resources. Evaluations of programs and their
35 operation shall consider the views of the poor on the board, as well as the views of program participants
36 and area residents.

1 (3) ~~Adequate information~~ Information and training for board members about their by-laws, functions,
2 duties, and responsibilities and the issues ~~which that~~ which that will come before them. ~~This will permit board~~
3 ~~members to make the fullest possible contribution to the work of the board. In this connection, the by laws~~
4 ~~of the agency shall be distributed and fully explained to members of the board.~~

5 (4) Developing effective involvement of the poor in ~~each major program.~~ programs administered by the
6 grant recipient. This involvement may be in the form of a program advisory committee or neighborhood
7 council made up of ~~target area residents.~~ persons residing in the county or counties where the grant
8 recipient administers programs. The committee and council may advise the grant recipient on program
9 priorities, participate in the development of ~~pertinent parts~~ of the grant application, review and comment on
10 programs and policies, and participate in the evaluation of programs.

11 (5) The grant recipient in the planning process of its Community Anti-Poverty Plan ~~Anti Poverty Plan,~~
12 shall annually hold ~~a sufficient number of~~ meetings to ascertain ~~from low income residents their~~
13 suggestions, recommendations, and priorities for eliminating ~~poverty.~~ poverty from the poor. The grant
14 recipient shall provide ~~adequate~~ information and training to the low income residents that are poor to
15 ensure their ~~effective and meaningful~~ involvement in this planning process. The recommendations,
16 suggestions, and priorities of the low income residents that are poor ~~will~~ shall be reviewed by the board of
17 directors in its determination of programs to be implemented by the grant recipient, and will be maintained
18 by the grant recipient for public inspection.

19
20 *History Note:* Authority G.S. 143B-153(6); 143B-10; 143B-276; 143B-277; 143-323(d);
21 Eff. December 1, 1983;
22 Amended Eff. October 1, 1984;
23 Readopted Eff. November 1, 2017.



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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July 20, 2017

Carlotta Dixon, Rulemaking Coordinator
Social Services Commission
Sent via email only: Carlotta.Dixon@dhhs.nc.gov

Re: Objection to Rules:
10A NCAC 97B .0401, .0402, .0403; and
10A NCAC 97C .0104, .0106, .0108, .0109, and .0111

Dear Ms. Dixon:

At its meeting this morning, the Rules Review Commission objected to the above-captioned rules in accordance with G.S. 150B-21.10.

The Commission objected to the Rules based upon lack of statutory authority, as none of the Rules as submitted to the Commission for review provided any statutory authority for the Social Services Commission to promulgate them.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please let me know.

Sincerely,



Amanda J. Reeder
Commission Counsel

cc: Nancy Dunn, Attorney General

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RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Social Services Commission

RULE CITATION: All Rules Submitted in 10A NCAC 97B and 97C

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to all Rules submitted in 10A NCAC 97B and 97C because the agency does not cite to any authority to promulgate these Rules. Staff notes that these are readoptions. The report was reviewed by the Social Services Commission and the Department of Health and Human Services. The RRC reviewed the report in February 2015. The APO consultation became final on April 25, 2015.

In the History Note of almost every Rule, the agency cites to four laws. The first is G.S. 143B-10, which addresses the organization of departments and does not confer rulemaking authority for this subject matter. The second and third citations are G.S. 143B-276 and 277; these statutes were repealed in 1989. Finally, the agency cites to G.S. 143-323(d). That statute, "Functions of the Department of Environmental Quality" authorizes the Department of Environmental Quality to apply for and accept grants from the federal government. The specific citation provided by the Social Services Commission states:

(d) Federal Assistance. – The Department [of Environmental Quality], with the approval of the Governor, may apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual, and may comply with the terms, conditions, and limitations of the grant, in order to accomplish any of the purposes of the Department. Grant funds shall be expended pursuant to the Executive Budget Act.

Amanda J. Reeder
Commission Counsel

Therefore, if G.S. 143-323 has any bearing upon these Rules, that statute confers rulemaking authority upon the Secretary of the Department of Environmental Quality, not the Social Services Commission. Staff further notes that there is a bill pending, House Bill 371, that would transfer this portion of the statute to the authority of the Secretary of the Department of Cultural and Natural Resources.

In a few of the Rules, the agency cites to additional authority of Federal Regulations (see Rules 97C .0106, .0108, and .0109). Staff believes the citation in the History Note is intended to span 42 USC 9901 – 9912, codified as 42 USCA 9901 – 9912. However, none of these regulations provide authority to this agency to promulgate rules. Additionally, Rule 97C .0108 cites to G.S. 143B-227. That statute is reserved for future codification purposes. Further, this statute, if enacted, is located in an Article that governs the Property Tax Commission.

It may be that the Social Services Commission has authority to promulgate these Rules, but as submitted, the agency has not provided any statutes that support this position. Staff notes that none of these Rules have been amended since 1989. Therefore, it is possible that the agency had the authority to promulgate the Rules at that time. However, it is not clear that the agency still has this authority.

Therefore, staff recommends objection to these Rules as submitted, because the agency has not provided any statutory authority to promulgate these Rules.

§ 143-323. Functions of Department of Environmental Quality.

(a) Recreation. – The Department of Environmental Quality shall have the following powers and duties with respect to recreation:

- (1) To study and appraise the recreation needs of the State and to assemble and disseminate information relative to recreation.
- (2) To cooperate in the promotion and organization of local recreation systems for counties, municipalities, and other political subdivisions of the State, to aid them in the administration, finance, planning, personnel, coordination and cooperation of recreation organizations and programs.
- (3) To aid in recruiting, training, and placing recreation workers, and to promote recreation institutes and conferences.
- (4) To establish and promote recreation standards.
- (5) To cooperate with appropriate State, federal, and local agencies and private membership groups and commercial recreation interests in the promotion of recreation opportunities, and to represent the State in recreation conferences, study groups, and other matters of recreation concern.
- (6) To accept gifts, devises, and endowments. The funds, if given as an endowment, shall be invested in securities designated by the donor, or if there is no such designation, in securities in which the State sinking fund may be invested. All such gifts and devises and all proceeds from such invested endowments shall be used for carrying out the purposes for which they were made.
- (7) To advise agencies, departments, organizations and groups in the planning, application and use of federal and State funds which are assigned or administered by the State for recreation programs and services on land and water recreation areas and on which the State renders advisory or other recreation services or upon which the State exercises control.
- (8) To act jointly, when advisable, with any other State, local or federal agency, institution, private individual or group in order to better carry out the Department's objectives and responsibilities.

(b) Repealed by Session Laws 1977, c. 70, s. 32.

(c) Repealed by Session Laws 1989, c. 751, s. 5.

(d) Federal Assistance. – The Department, with the approval of the Governor, may apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual, and may comply with the terms, conditions, and limitations of the grant, in order to accomplish any of the purposes of the Department. Grant funds shall be expended pursuant to the Executive Budget Act.

(e) General. – The Department shall have the following general powers and duties.

- (1) To study and to sponsor research on all aspects of local government and of relationships between the federal government, the State and local governments in North Carolina.
- (2) To collect, collate, analyze, publish, and disseminate information necessary for the effective operation of the Department and useful to local government.
- (3) To maintain an inventory of data and information, and to act as a clearinghouse of information and as a referral agency with respect to State, federal, and private services and programs available to local government; and to facilitate local

participation in those programs by furnishing information, education, guidance, and technical assistance with respect to those programs.

- (4) To assist in coordinating State and federal activities relating to local government.
- (5) To assist local governments in the identification and solution of their problems.
- (6) To assist local officials in bringing specific governmental problems to the attention of the appropriate State, federal, and private agencies.
- (7) To advise and assist local governments with respect to intergovernmental contracts, joint service agreements, regional service arrangements, and other forms of intergovernmental cooperation.
- (8) To inform and advise the Governor on the affairs and problems of local government and on the need for the administrative and legislative action with respect to local government. (1969, c. 1145, s. 1; 1973, c. 1262, s. 51; 1977, c. 70, s. 32; c. 771, s. 4; 1989, c. 727, s. 218(116); c. 751, s. 5; 1997-443, s. 11A.119(a); 2011-284, s. 92; 2015-241, s. 14.30(u).)

§ 143B-10. Powers and duties of heads of principal departments.

(a) Assignment of Functions. – Except as otherwise provided by this Chapter, the head of each principal State department may assign or reassign any function vested in him or in his department to any subordinate officer or employee of his department.

(b) Reorganization by Department Heads. – With the approval of the Governor, each head of a principal State department may establish or abolish within his department any division. Each head of a principal State department may establish or abolish within his department any other administrative unit to achieve economy and efficiency and in accordance with sound administrative principles, practices, and procedures except as otherwise provided by law. When any such act of the head of the principal State department affects existing law the provisions of Article III, Sec. 5(10) of the Constitution of North Carolina shall be followed.

Each Department Head shall report all reorganizations under this subsection to the President of the Senate, the Speaker of the House of Representatives, the Chairmen of the Appropriations Committees in the Senate and the House of Representatives, and the Fiscal Research Division of the Legislative Services Office, within 30 days after the reorganization if the General Assembly is in session, otherwise to the Joint Legislative Committee on Governmental Operations and the Fiscal Research Division of the Legislative Services Office, within 30 days after the reorganization. The report shall include the rationale for the reorganization and any increased efficiency in operations expected from the reorganization.

(c) Department Staffs. – The head of each principal State department may establish necessary subordinate positions within his department, make appointments to those positions, and remove persons appointed to those positions, all within the limitations of appropriations and subject to the North Carolina Human Resources Act. All employees within a principal State department shall be under the supervision, direction, and control of the head of that department. The head of each principal State department may establish or abolish positions, transfer officers and employees between positions, and change the duties, titles, and compensation of existing offices and positions as he deems necessary for the efficient functioning of the department, subject to the North Carolina Human Resources Act and the limitations of available appropriations. For the purposes of the foregoing provisions, a member of a board, commission, council, committee, or other citizen group shall not be considered an "employee within a principal department."

(d) Appointment of Committees or Councils. – The head of each principal department may create and appoint committees or councils to consult with and advise the department. The General Assembly declares its policy that insofar as feasible, such committees or councils shall consist of no more than 12 members, with not more than one from each congressional district. If any department head desires to vary this policy, he must make a request in writing to the Governor, stating the reasons for the request. The Governor may approve the request, but may only do so in writing. Copies of the request and approval shall be transmitted to the Joint Legislative Commission on Governmental Operations. The members of any committee or council created by the head of a principal department shall serve at the pleasure of the head of the principal department and may be paid per diem and necessary travel and subsistence expenses within the limits of appropriations and in accordance with the provisions of G.S. 138-5, when approved in advance by the Director of the Budget. Per diem, travel, and subsistence payments to members of the committees or councils created in connection with federal programs shall be paid from federal funds unless otherwise provided by law.

An annual report listing these committees or councils, the total membership on each, the cost in the last 12 months and the source of funding, and the title of the person who made the appointments shall be made to the Joint Legislative Commission on Governmental Operations by March 31 of each year.

(e) Departmental Management Functions. – All management functions of a principal State department shall be performed by or under the direction and supervision of the head of that principal State department. Management functions shall include planning, organizing, staffing, directing, coordinating, reporting, and budgeting.

(f) Custody of Records. – The head of a principal State department shall have legal custody of all public records as defined in G.S. 132-1.

(g) Budget Preparation. – The head of a principal State department shall be responsible for the preparation of and the presentation of the department budget request which shall include all funds requested and all receipts expected for all elements of the department.

(h) Plans and Reports. – Each principal State department shall submit to the Governor an annual plan of work for the next fiscal year prior to the beginning of that fiscal year. Each principal State department shall submit to the Governor an annual report covering programs and activities for each fiscal year. These plans of work and annual reports shall be made available to the General Assembly. These documents will serve as the base for the development of budgets for each principal State department of State government to be submitted to the Governor.

(i) Reports to Governor; Public Hearings. – Each head of a principal State department shall develop and report to the Governor legislative, budgetary, and administrative programs to accomplish comprehensive, long-range coordinated planning and policy formulation in the work of his department. To this end, the head of the department may hold public hearings, consult with and use the services of other State agencies, employ staff and consultants, and appoint advisory and technical committees to assist in the work.

(j) Departmental Rules and Policies. – The head of each principal State department and the Director of the Office of State Human Resources may adopt:

- (1) Rules consistent with law for the custody, use, and preservation of any public records, as defined in G.S. 132-1, which pertain to department business;
- (2) Rules, approved by the Governor, to govern the management of the department, which shall include the functions of planning, organizing, staffing, directing,

coordinating, reporting, budgeting, and budget preparation which affect private rights or procedures available to the public;

- (3) Policies, consistent with law and with rules established by the Governor and with rules of the State Human Resources Commission, which reflect internal management procedures within the department. These may include policies governing the conduct of employees of the department, the distribution and performance of business and internal management procedures which do not affect private rights or procedures available to the public and which are listed in (e) of this section. Policies establishing qualifications for employment shall be adopted and filed pursuant to Chapter 150B of the General Statutes; all other policies under this subdivision shall not be adopted or filed pursuant to Chapter 150B of the General Statutes.

Rules adopted under (1) and (2) of this subsection shall be subject to the provisions of Chapter 150B of the General Statutes.

This subsection shall not be construed as a legislative grant of authority to an agency to make and promulgate rules concerning any policies and procedures other than as set forth herein. (1973, c. 476, s. 10; c. 1416, ss. 1, 2; 1977, 2nd Sess., c. 1219, s. 46; 1983, c. 76, ss. 1, 2; c. 641, s. 8; c. 717, s. 78; 1985 (Reg. Sess., 1986), c. 955, ss. 97, 98; 1987, c. 738, s. 147; c. 827, s. 1; 1991 (Reg. Sess., 1992), c. 1038, s. 15; 2006-203, s. 101; 2013-382, s. 9.1(c).)

Article 7.

Department of Environment and Natural Resources.

Part 1. General Provisions.

§§ 143B-275 through 143B-279: Repealed by Session Laws 1989, c. 727, s. 2.

Article 4.

Department of Revenue.

Part 1. General Provisions.

Part 2. Property Tax Commission.

§§ 143B-222 through 143B-225: Repealed by Session Laws 1991, c. 110, s. 3.

§§ 143B-226 through 143B-245. Reserved for future codification purposes.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 371

Committee Substitute Favorable 4/19/17

Short Title: Agency Powers and Duties/Technical Changes.-AB (Public)

Sponsors:

Referred to:

March 16, 2017

A BILL TO BE ENTITLED

AN ACT to clarify certain powers of the Department of Natural and Cultural Resources with respect to recreation and federal Recreation-related funding and with respect to the North CAROLINA ZOOLOGICAL PARK, TO ADD SWORN LAW ENFORCEMENT OFFICERS OF THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES TO THE LIST OF OFFICERS ELIGIBLE FOR SALARY CONTINUATION FOR WORKERS' COMPENSATION, AND TO CHANGE THE NAME OF THE CLEAN water management trust fund to the north carolina land and water preservation trust fund, as recommended by the Department.

The General Assembly of North Carolina enacts:

Statutory authority regarding recreation AND CERTAIN LAW ENFORCEMENT OFFICER BENEFITS

SECTION 1.(a) Subdivision (3) of G.S. 143-320 is recodified as subdivision (3a) of G.S. 143B-135.44.

SECTION 1.(b) Subsections (a) and (d) of G.S. 143-323 are recodified as subsections (a) and (b) of G.S. 143B-135.58, to be entitled "Additional powers and duties of the Department regarding recreation."

SECTION 1.(c) G.S. 143B-135.58, as enacted by Section 1(b) of this act, reads as rewritten:

"§ 143B-135.58. Additional powers and duties of the Department regarding recreation.

(a) Recreation. – The Department of Environmental Quality shall have the following powers and duties with respect to recreation:

Amanda J. Reeder
Commission Counsel

- (1) To study and appraise the recreation needs of the State and to assemble and disseminate information relative to recreation.
 - (2) To cooperate in the promotion and organization of local recreation systems for counties, municipalities, and other political subdivisions of the State, to aid them in the administration, finance, planning, personnel, coordination and cooperation of recreation organizations and programs.
 - (3) To aid in recruiting, training, and placing recreation workers, and to promote recreation institutes and conferences.
 - (4) To establish and promote recreation standards.
 - (5) To cooperate with appropriate State, federal, and local agencies and private membership groups and commercial recreation interests in the promotion of recreation opportunities, and to represent the State in recreation conferences, study groups, and other matters of recreation concern.
 - (6) To accept gifts, devises, and endowments. The funds, if given as an endowment, shall be invested in securities designated by the donor, or if there is no such designation, in securities in which the State sinking fund may be invested. All such gifts and devises and all proceeds from such invested endowments shall be used for carrying out the purposes for which they were made.
 - (7) To advise agencies, departments, organizations and groups in the planning, application and use of federal and State funds which are assigned or administered by the State for recreation programs and services on land and water recreation areas and on which the State renders advisory or other recreation services or upon which the State exercises control.
 - (8) To act jointly, when advisable, with any other State, local or federal agency, institution, private individual or group in order to better carry out the Department's objectives and responsibilities.
- (b) Federal Assistance. – The Department, with the approval of the Governor, may apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual, and may comply with the terms, conditions, and limitations of the grant, in order to accomplish any of the purposes of the Department. Grant funds shall be expended pursuant to the ~~Executive Budget Act~~ State Budget Act. The Director of the Department's Division of Parks and Recreation shall be designated as having the authority and responsibility to accept and administer funding through the federal Land and Water Conservation Fund or any successor fund established for similar purposes, and the Secretary may designate additional personnel to assist the Director in the responsibilities imposed by this subsection."

42 U.S.C.A. § 9901

§ 9901. Purposes and goals

Effective: October 27, 1998

The purposes of this chapter are--

(1) to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act ([42 U.S.C. 601 et seq.](#))); and

(2) to accomplish the goals described in paragraph (1) through--

(A) the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;

(B) the organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

(C) the greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;

(D) the maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grants made under this chapter to empower such residents and members to respond to the unique problems and needs within their communities; and

(E) the broadening of the resource base of programs directed to the elimination of poverty so as to secure a more active role in the provision of services for--

(i) private, religious, charitable, and neighborhood-based organizations; and

Amanda J. Reeder
Commission Counsel

(ii) individual citizens, and business, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor.

CREDIT(S)

(Pub.L. 97-35, Title VI, § 672, Aug. 13, 1981, as added Pub.L. 105-285, Title II, § 201, Oct. 27, 1998, 112 Stat. 2728.)

42 U.S.C.A. § 9902

§ 9902. Definitions

Effective: October 27, 1998

In this chapter:

(1) Eligible entity; family literacy services

(A) Eligible entity

The term “eligible entity” means an entity--

(i) that is an eligible entity described in paragraph (1) of this section (as in effect on the day before October 27, 1998) as of the day before October 27, 1998, or is designated by the process described in [section 9909](#) of this title (including an organization serving migrant or seasonal farmworkers that is so described or designated); and

(ii) that has a tripartite board or other mechanism described in subsection (a) or (b), as appropriate, of [section 9910](#) of this title.

(B) Family literacy services

The term “family literacy services” has the meaning given the term in [section 9832](#) of this title.

(2) Poverty line

The term “poverty line” means the official poverty line defined by the Office of Management and Budget based on the most recent data available from the Bureau of the Census. The Secretary shall revise annually (or at any shorter interval the Secretary determines to be feasible and desirable) the poverty line, which shall be used as a criterion of eligibility in the community services block grant program established under this chapter. The required revision shall be accomplished by multiplying the official poverty line by the percentage change in the Consumer Price Index for All

Amanda J. Reeder
Commission Counsel

Urban Consumers during the annual or other interval immediately preceding the time at which the revision is made. Whenever a State determines that it serves the objectives of the block grant program established under this chapter, the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph.

(3) Private, nonprofit organization

The term “private, nonprofit organization” includes a religious organization, to which the provisions of [section 9920](#) of this title shall apply.

(4) Secretary

The term “Secretary” means the Secretary of Health and Human Services.

(5) State

The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

CREDIT(S)

([Pub.L. 97-35, Title VI, § 673](#), Aug. 13, 1981, as added [Pub.L. 105-285, Title II, § 201](#), Oct. 27, 1998, 112 Stat. 2729.)

42 U.S.C.A. § 9903

§ 9903. Authorization of appropriations

Effective: October 27, 1998

(a) In general

There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1999 through 2003 to carry out the provisions of this chapter (other than [sections 9922](#) and [9923](#) of this title).

(b) Reservations

Of the amounts appropriated under subsection (a) of this section for each fiscal year, the Secretary shall reserve--

Amanda J. Reeder
Commission Counsel

(1) ½ of 1 percent for carrying out [section 9905](#) of this title (relating to payments for territories);

(2) 1 ½ percent for activities authorized in [sections 9913](#) through [9918](#) of this title, of which--

(A) not less than ½ of the amount reserved by the Secretary under this paragraph shall be distributed directly to eligible entities, organizations, or associations described in [section 9913\(c\)\(2\)](#) of this title for the purpose of carrying out activities described in [section 9913\(c\)](#) of this title; and

(B) ½ of the remainder of the amount reserved by the Secretary under this paragraph shall be used by the Secretary to carry out evaluation and to assist States in carrying out corrective action activities and monitoring (to correct programmatic deficiencies of eligible entities), as described in [sections 9914\(c\)](#) and [9913](#) of this title; and

(3) 9 percent for carrying out [section 9921](#) of this title (relating to discretionary activities) and [section 9917\(b\)\(2\)](#) of this title.

CREDIT(S)

([Pub.L. 97-35, Title VI, § 674](#), Aug. 13, 1981, as added [Pub.L. 105-285, Title II, § 201](#), Oct. 27, 1998, 112 Stat. 2730.)

42 U.S.C.A. § 9904

§ 9904. Establishment of block grant program

Effective: October 27, 1998

The Secretary is authorized to establish a community services block grant program and make grants through the program to States to ameliorate the causes of poverty in communities within the States.

CREDIT(S)

([Pub.L. 97-35, Title VI, § 675](#), Aug. 13, 1981, as added [Pub.L. 105-285, Title II, § 201](#), Oct. 27, 1998, 112 Stat. 2730.)

42 U.S.C.A. § 9905

§ 9905. Distribution to territories

Effective: October 27, 1998

(a) Apportionment

The Secretary shall apportion the amount reserved under [section 9903\(b\)\(1\)](#) of this title for each fiscal year on the basis of need among Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(b) Application

Each jurisdiction to which subsection (a) of this section applies may receive a grant under this section for the amount apportioned under subsection (a) of this section on submitting to the Secretary, and obtaining approval of, an application, containing provisions that describe the programs for which assistance is sought under this section, that is prepared in accordance with, and contains the information described in, [section 9908](#) of this title.

CREDIT(S)

([Pub.L. 97-35, Title VI, § 675A](#), Aug. 13, 1981, as added [Pub.L. 105-285, Title II, § 201](#), Oct. 27, 1998, 112 Stat. 2730.)

42 U.S.C.A. § 9906

§ 9906. Allotments and payments to States

Effective: October 27, 1998

(a) Allotments in general

The Secretary shall, from the amount appropriated under [section 9903\(a\)](#) of this title for each fiscal year that remains after the Secretary makes the reservations required in [section 9903\(b\)](#) of this title, allot to each State (subject to [section 9911](#) of this title) an amount that bears the same ratio to such remaining amount as the amount received by the State for fiscal year 1981 under [section 2808](#) of this title bore to the total amount received by all States for fiscal year 1981 under such section, except--

(1) that no State shall receive less than $\frac{1}{4}$ of 1 percent of the amount appropriated under [section 9903\(a\)](#) of this title for such fiscal year; and

(2) as provided in subsection (b) of this section.

Amanda J. Reeder
Commission Counsel

(b) Allotments in years with greater available funds

(1) Minimum allotments

Subject to paragraphs (2) and (3), if the amount appropriated under [section 9903\(a\)](#) of this title for a fiscal year that remains after the Secretary makes the reservations required in [section 9903\(b\)](#) of this title exceeds \$345,000,000, the Secretary shall allot to each State not less than $\frac{1}{2}$ of 1 percent of the amount appropriated under [section 9903\(a\)](#) of this title for such fiscal year.

(2) Maintenance of fiscal year 1990 levels

Paragraph (1) shall not apply with respect to a fiscal year if the amount allotted under subsection (a) of this section to any State for that year is less than the amount allotted under [section 9903\(a\)\(1\)](#) of this title (as in effect on September 30, 1989) to such State for fiscal year 1990.

(3) Maximum allotments

The amount allotted under paragraph (1) to a State for a fiscal year shall be reduced, if necessary, so that the aggregate amount allotted to such State under such paragraph and subsection (a) of this section does not exceed 140 percent of the aggregate amount allotted to such State under the corresponding provisions of this chapter [[42 U.S.C.A. § 9901 et seq.](#)] for the preceding fiscal year.

(c) Payments

The Secretary shall make grants to eligible States for the allotments described in subsections (a) and (b) of this section. The Secretary shall make payments for the grants in accordance with [section 6503\(a\) of Title 31](#).

(d) Definition

In this section, the term “State” does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

CREDIT(S)

([Pub.L. 97-35, Title VI, § 675B](#), Aug. 13, 1981, as added [Pub.L. 105-285, Title II, § 201](#), Oct. 27, 1998, 112 Stat. 2730.)

42 U.S.C.A. § 9907

§ 9907. Uses of funds

Effective: October 27, 1998

(a) Grants to eligible entities and other organizations

(1) In general

Not less than 90 percent of the funds made available to a State under [section 9905](#) or [9906](#) of this title shall be used by the State to make grants for the purposes described in [section 9901](#) of this title to eligible entities.

(2) Obligational authority

Funds distributed to eligible entities through grants made in accordance with paragraph (1) for a fiscal year shall be available for obligation during that fiscal year and the succeeding fiscal year, subject to paragraph (3).

(3) Recapture and redistribution of unobligated funds

(A) Amount

Beginning on October 1, 2000, a State may recapture and redistribute funds distributed to an eligible entity through a grant made under paragraph (1) that are unobligated at the end of a fiscal year if such unobligated funds exceed 20 percent of the amount so distributed to such eligible entity for such fiscal year.

(B) Redistribution

In redistributing funds recaptured in accordance with this paragraph, States shall redistribute such funds to an eligible entity, or require the original recipient of the funds to redistribute the funds to a private, nonprofit organization, located within the community served by the original recipient of the funds, for activities consistent with the purposes of this chapter.

(b) Statewide activities

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(1) Use of remainder

If a State uses less than 100 percent of the grant or allotment received under [section 9905](#) or [9906](#) of this title to make grants under subsection (a) of this section, the State shall use the remainder of the grant or allotment under [section 9905](#) or [9906](#) of this title (subject to paragraph (2)) for activities that may include--

- (A) providing training and technical assistance to those entities in need of such training and assistance;
- (B) coordinating State-operated programs and services, and at the option of the State, locally-operated programs and services, targeted to low-income children and families with services provided by eligible entities and other organizations funded under this chapter, including detailing appropriate employees of State or local agencies to entities funded under this chapter, to ensure increased access to services provided by such State or local agencies;
- (C) supporting statewide coordination and communication among eligible entities;
- (D) analyzing the distribution of funds made available under this chapter within the State to determine if such funds have been targeted to the areas of greatest need;
- (E) supporting asset-building programs for low-income individuals, such as programs supporting individual development accounts;
- (F) supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization;
- (G) supporting State charity tax credits as described in subsection (c) of this section; and
- (H) supporting other activities, consistent with the purposes of this chapter.

(2) Administrative cap

No State may spend more than the greater of \$55,000, or 5 percent, of the grant received under [section 9905](#) of this title or State allotment received under [section 9906](#) of this title for administrative expenses, including monitoring activities. Funds to be spent for such expenses shall be taken from the portion of the grant under [section 9905](#) of this title or State allotment that remains after the State makes grants to eligible entities under subsection (a) of this section. The cost of activities conducted under paragraph (1)(A) shall not be considered to be administrative expenses. The startup cost and cost of administrative activities conducted under subsection (c) of this section shall be considered to

be administrative expenses.

(c) Charity tax credit

(1) In general

Subject to paragraph (2), if there is in effect under State law a charity tax credit, the State may use for any purpose the amount of the allotment that is available for expenditure under subsection (b) of this section.

(2) Limit

The aggregate amount a State may use under paragraph (1) during a fiscal year shall not exceed 100 percent of the revenue loss of the State during the fiscal year that is attributable to the charity tax credit, as determined by the Secretary of the Treasury without regard to any such revenue loss occurring before January 1, 1999.

(3) Definitions and rules

In this subsection:

(A) Charity tax credit

The term “charity tax credit” means a nonrefundable credit against State income tax (or, in the case of a State that does not impose an income tax, a comparable benefit) that is allowable for contributions, in cash or in kind, to qualified charities.

(B) Qualified charity

(i) In general

The term “qualified charity” means any organization--

(I) that is--

(aa) described in [section 501\(c\)\(3\) of Title 26](#) and exempt from tax under section 501(a) of such title;

Amanda J. Reeder
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(bb) an eligible entity; or

(cc) a public housing agency as defined in [section 1437a\(b\)\(6\)](#) of this title;

(II) that is certified by the appropriate State authority as meeting the requirements of clauses (iii) and (iv); and

(III) if such organization is otherwise required to file a return under section 6033 of such title, that elects to treat the information required to be furnished by clause (v) as being specified in section 6033(b) of such title.

(ii) Certain contributions to collection organizations treated as contributions to qualified charity

(I) In general

A contribution to a collection organization shall be treated as a contribution to a qualified charity if the donor designates in writing that the contribution is for the qualified charity.

(II) Collection organization

The term “collection organization” means an organization described in section 501(c)(3) of such title and exempt from tax under section 501(a) of such title--

(aa) that solicits and collects gifts and grants that, by agreement, are distributed to qualified charities;

(bb) that distributes to qualified charities at least 90 percent of the gifts and grants the organization receives that are designated for such qualified charities; and

(cc) that meets the requirements of clause (vi).

(iii) Charity must primarily assist poor individuals

(I) In general

An organization meets the requirements of this clause only if the appropriate State authority reasonably expects that the predominant activity of such organization will be the provision of direct services within the United States to individuals and families whose annual incomes generally do not exceed 185 percent of the poverty line in order to prevent or alleviate poverty among such individuals and families.

(II) No recordkeeping in certain cases

An organization shall not be required to establish or maintain records with respect to the incomes of individuals and families for purposes of subclause (I) if such individuals or families are members of groups that are generally recognized as including substantially only individuals and families described in subclause (I).

(III) Food aid and homeless shelters

Except as otherwise provided by the appropriate State authority, for purposes of subclause (I), services to individuals in the form of--

(aa) donations of food or meals; or

(bb) temporary shelter to homeless individuals;

shall be treated as provided to individuals described in subclause (I) if the location and provision of such services are such that the service provider may reasonably conclude that the beneficiaries of such services are predominantly individuals described in subclause (I).

(iv) Minimum expense requirement

(I) In general

An organization meets the requirements of this clause only if the appropriate State authority reasonably expects that the annual poverty program expenses of such organization will not be less than 75 percent of the annual aggregate expenses of such organization.

(II) Poverty program expense

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For purposes of subclause (I)--

(aa) In general

The term “poverty program expense” means any expense in providing direct services referred to in clause (iii).

(bb) Exceptions

Such term shall not include any management or general expense, any expense for the purpose of influencing legislation (as defined in [section 4911\(d\) of Title 26](#)), any expense for the purpose of fundraising, any expense for a legal service provided on behalf of any individual referred to in clause (iii), any expense for providing tuition assistance relating to compulsory school attendance, and any expense that consists of a payment to an affiliate of the organization.

(v) Reporting requirement

The information required to be furnished under this clause about an organization is--

(I) the percentages determined by dividing the following categories of the organization’s expenses for the year by the total expenses of the organization for the year: expenses for direct services, management expenses, general expenses, fundraising expenses, and payments to affiliates; and

(II) the category or categories (including food, shelter, education, substance abuse prevention or treatment, job training, or other) of services that constitute predominant activities of the organization.

(vi) Additional requirements for collection organizations

The requirements of this clause are met if the organization--

(I) maintains separate accounting for revenues and expenses; and

(II) makes available to the public information on the administrative and fundraising costs of the organization, and information as to the organizations receiving funds from the organization and the amount of such funds.

(vii) Special rule for States requiring tax uniformity

In the case of a State--

(I) that has a constitutional requirement of tax uniformity; and

(II) that, as of December 31, 1997, imposed a tax on personal income with--

(aa) a single flat rate applicable to all earned and unearned income (except insofar as any amount is not taxed pursuant to tax forgiveness provisions); and

(bb) no generally available exemptions or deductions to individuals;

the requirement of paragraph (2) shall be treated as met if the amount of the credit described in paragraph (2) is limited to a uniform percentage (but not greater than 25 percent) of State personal income tax liability (determined without regard to credits).

(4) Limitation on use of funds for startup and administrative activities

Except to the extent provided in subsection (b)(2) of this section, no part of the aggregate amount a State uses under paragraph (1) may be used to pay for the cost of the startup and administrative activities conducted under this subsection.

(5) Prohibition on use of funds for legal services or tuition assistance

No part of the aggregate amount a State uses under paragraph (1) may be used to provide legal services or to provide tuition assistance related to compulsory education requirements (not including tuition assistance for tutoring, camps, skills development, or other supplemental services or training).

(6) Prohibition on supplanting funds

No part of the aggregate amount a State uses under paragraph (1) may be used to supplant non-Federal funds that would be available, in the absence of Federal funds, to offset a revenue loss of the State attributable to a charity tax credit.

CREDIT(S)

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(Pub.L. 97-35, Title VI, § 675C, Aug. 13, 1981, as added Pub.L. 105-285, Title II, § 201, Oct. 27, 1998, 112 Stat. 2731.)

42 U.S.C.A. § 9908

§ 9908. Application and plan

Effective: July 1, 2015

(a) Designation of lead agency

(1) Designation

The chief executive officer of a State desiring to receive a grant or allotment under [section 9905](#) or [9906](#) of this title shall designate, in an application submitted to the Secretary under subsection (b) of this section, an appropriate State agency that complies with the requirements of paragraph (2) to act as a lead agency for purposes of carrying out State activities under this chapter.

(2) Duties

The lead agency shall--

(A) develop the State plan to be submitted to the Secretary under subsection (b) of this section;

(B) in conjunction with the development of the State plan as required under subsection (b) of this section, hold at least one hearing in the State with sufficient time and statewide distribution of notice of such hearing, to provide to the public an opportunity to comment on the proposed use and distribution of funds to be provided through the grant or allotment under [section 9905](#) or [9906](#) of this title for the period covered by the State plan; and

(C) conduct reviews of eligible entities under [section 9914](#) of this title.

(3) Legislative hearing

In order to be eligible to receive a grant or allotment under [section 9905](#) or [9906](#) of this title, the State shall hold at least one legislative hearing every 3 years in conjunction with the development of the State plan.

(b) State application and plan

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Beginning with fiscal year 2000, to be eligible to receive a grant or allotment under [section 9905](#) or [9906](#) of this title, a State shall prepare and submit to the Secretary an application and State plan covering a period of not less than 1 fiscal year and not more than 2 fiscal years. The plan shall be submitted not later than 30 days prior to the beginning of the first fiscal year covered by the plan, and shall contain such information as the Secretary shall require, including--

(1) an assurance that funds made available through the grant or allotment will be used--

(A) to support activities that are designed to assist low-income families and individuals, including families and individuals receiving assistance under part A of title IV of the Social Security Act ([42 U.S.C. 601 et seq.](#)), homeless families and individuals, migrant or seasonal farmworkers, and elderly low-income individuals and families, and a description of how such activities will enable the families and individuals--

(i) to remove obstacles and solve problems that block the achievement of self-sufficiency (including self-sufficiency for families and individuals who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act);

(ii) to secure and retain meaningful employment;

(iii) to attain an adequate education, with particular attention toward improving literacy skills of the low-income families in the communities involved, which may include carrying out family literacy initiatives;

(iv) to make better use of available income;

(v) to obtain and maintain adequate housing and a suitable living environment;

(vi) to obtain emergency assistance through loans, grants, or other means to meet immediate and urgent family and individual needs; and

(vii) to achieve greater participation in the affairs of the communities involved, including the development of public and private grassroots partnerships with local law enforcement agencies, local housing authorities, private foundations, and other public and private partners to--

(I) document best practices based on successful grassroots intervention in urban areas, to develop methodologies for widespread replication; and

Amanda J. Reeder
Commission Counsel

(II) strengthen and improve relationships with local law enforcement agencies, which may include participation in activities such as neighborhood or community policing efforts;

(B) to address the needs of youth in low-income communities through youth development programs that support the primary role of the family, give priority to the prevention of youth problems and crime, and promote increased community coordination and collaboration in meeting the needs of youth, and support development and expansion of innovative community-based youth development programs that have demonstrated success in preventing or reducing youth crime, such as--

(i) programs for the establishment of violence-free zones that would involve youth development and intervention models (such as models involving youth mediation, youth mentoring, life skills training, job creation, and entrepreneurship programs); and

(ii) after-school child care programs; and

(C) to make more effective use of, and to coordinate with, other programs related to the purposes of this chapter (including State welfare reform efforts);

(2) a description of how the State intends to use discretionary funds made available from the remainder of the grant or allotment described in [section 9907\(b\)](#) of this title in accordance with this chapter, including a description of how the State will support innovative community and neighborhood-based initiatives related to the purposes of this chapter;

(3) information provided by eligible entities in the State, containing--

(A) a description of the service delivery system, for services provided or coordinated with funds made available through grants made under [section 9907\(a\)](#) of this title, targeted to low-income individuals and families in communities within the State;

(B) a description of how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and followup consultations;

(C) a description of how funds made available through grants made under [section 9907\(a\)](#) of this title will be coordinated with other public and private resources; and

(D) a description of how the local entity will use the funds to support innovative community and neighborhood-

based initiatives related to the purposes of this chapter, which may include fatherhood initiatives and other initiatives with the goal of strengthening families and encouraging effective parenting;

(4) an assurance that eligible entities in the State will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals;

(5) an assurance that the State and the eligible entities in the State will coordinate, and establish linkages between, governmental and other social services programs to assure the effective delivery of such services to low-income individuals and to avoid duplication of such services, and a description of how the State and the eligible entities will coordinate the provision of employment and training activities, as defined in section 3 of the Workforce Innovation and Opportunity Act, in the State and in communities with entities providing activities through statewide and local workforce development systems under such Act;

(6) an assurance that the State will ensure coordination between antipoverty programs in each community in the State, and ensure, where appropriate, that emergency energy crisis intervention programs under title XXVI [42 U.S.C.A. § 8621 et seq.] (relating to low-income home energy assistance) are conducted in such community;

(7) an assurance that the State will permit and cooperate with Federal investigations undertaken in accordance with [section 9916](#) of this title;

(8) an assurance that any eligible entity in the State that received funding in the previous fiscal year through a community services block grant made under this chapter will not have its funding terminated under this chapter, 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, subject to review by the Secretary as provided in [section 9915\(b\)](#) of this title;

(9) an assurance that the State and eligible entities in the State will, to the maximum extent possible, coordinate programs with and form partnerships with other organizations serving low-income residents of the communities and members of the groups served by the State, including religious organizations, charitable groups, and community organizations;

(10) an assurance that the State will require each eligible entity in the State to establish procedures under which a low-income individual, community organization, or religious organization, or representative of low-income individuals that considers its organization, or low-income individuals, to be inadequately represented on the board (or other mechanism) of the eligible entity to petition for adequate representation;

(11) an assurance that the State will secure from each eligible entity in the State, as a condition to receipt of funding by the entity through a community services block grant made under this chapter for a program, a community action plan (which shall be submitted to the Secretary, at the request of the Secretary, with the State plan) that includes a

Amanda J. Reeder
Commission Counsel

community-needs assessment for the community served, which may be coordinated with community-needs assessments conducted for other programs;

(12) an assurance that the State and all eligible entities in the State will, not later than fiscal year 2001, participate in the Results Oriented Management and Accountability System, another performance measure system for which the Secretary facilitated development pursuant to [section 9917\(b\)](#) of this title, or an alternative system for measuring performance and results that meets the requirements of that section, and a description of outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization; and

(13) information describing how the State will carry out the assurances described in this subsection.

(c) Funding termination or reductions

For purposes of making a determination in accordance with subsection (b)(8) of this section with respect to--

(1) a funding reduction, the term “cause” includes--

(A) a statewide redistribution of funds provided through a community services block grant under this chapter to respond to--

(i) the results of the most recently available census or other appropriate data;

(ii) the designation of a new eligible entity; or

(iii) severe economic dislocation; or

(B) the failure of an eligible entity to comply with the terms of an agreement or a State plan, or to meet a State requirement, as described in [section 9915\(a\)](#) of this title; and

(2) a termination, the term “cause” includes the failure of an eligible entity to comply with the terms of an agreement or a State plan, or to meet a State requirement, as described in [section 9915\(a\)](#) of this title.

(d) Procedures and information

The Secretary may prescribe procedures for the purpose of assessing the effectiveness of eligible entities in carrying out the purposes of this chapter.

(e) Revisions and inspection

(1) Revisions

The chief executive officer of each State may revise any plan prepared under this section and shall submit the revised plan to the Secretary.

(2) Public inspection

Each plan or revised plan prepared under this section shall be made available for public inspection within the State in such a manner as will facilitate review of, and comment on, the plan.

(f) Transition

For fiscal year 2000, to be eligible to receive a grant or allotment under [section 9905](#) or [9906](#) of this title, a State shall prepare and submit to the Secretary an application and State plan in accordance with the provisions of this chapter (as in effect on the day before October 27, 1998), rather than the provisions of subsections (a) through (c) of this section relating to applications and plans.

CREDIT(S)

([Pub.L. 97-35, Title VI, § 676](#), Aug. 13, 1981, as added [Pub.L. 105-285, Title II, § 201](#), Oct. 27, 1998, 112 Stat. 2735; amended [Pub.L. 113-128, Title V, § 512\(f\)](#), July 22, 2014, 128 Stat. 1707.)

42 U.S.C.A. § 9909

§ 9909. Designation and redesignation of eligible entities in unserved areas

Effective: October 27, 1998

(a) Qualified organization in or near area

(1) In general

If any geographic area of a State is not, or ceases to be, served by an eligible entity under this chapter, and if the chief executive officer of the State decides to serve such area, the chief executive officer may solicit applications from, and

Amanda J. Reeder
Commission Counsel

designate as an eligible entity--

(A) a private nonprofit organization (which may include an eligible entity) that is geographically located in the unserved area, that is capable of providing a broad range of services designed to eliminate poverty and foster self-sufficiency, and that meets the requirements of this chapter; and

(B) a private nonprofit eligible entity that is geographically located in an area contiguous to or within reasonable proximity of the unserved area and that is already providing related services in the unserved area.

(2) Requirement

In order to serve as the eligible entity for the area, an entity described in paragraph (1)(B) shall agree to add additional members to the board of the entity to ensure adequate representation--

(A) in each of the three required categories described in [subparagraphs \(A\), \(B\), and \(C\) of section 9910\(a\)\(2\)](#) of this title, by members that reside in the community comprised by the unserved area; and

(B) in the category described in [section 9910\(a\)\(2\)\(B\)](#) of this title, by members that reside in the neighborhood to be served.

(b) Special consideration

In designating an eligible entity under subsection (a) of this section, the chief executive officer shall grant the designation to an organization of demonstrated effectiveness in meeting the goals and purposes of this chapter and may give priority, in granting the designation, to eligible entities that are providing related services in the unserved area, consistent with the needs identified by a community-needs assessment.

(c) No qualified organization in or near area

If no private, nonprofit organization is identified or determined to be qualified under subsection (a) of this section to serve the unserved area as an eligible entity the chief executive officer may designate an appropriate political subdivision of the State to serve as an eligible entity for the area. In order to serve as the eligible entity for that area, the political subdivision shall have a board or other mechanism as required in [section 9910\(b\)](#) of this title.

CREDIT(S)

([Pub.L. 97-35, Title VI, § 676A](#), Aug. 13, 1981, as added [Pub.L. 105-285, Title II, § 201](#), Oct. 27, 1998, 112 Stat. 2739.)

42 U.S.C.A. § 9910

§ 9910. Tripartite boards

Effective: October 27, 1998

(a) Private nonprofit entities

(1) Board

In order for a private, nonprofit entity to be considered to be an eligible entity for purposes of [section 9902\(1\)](#) of this title, the entity shall administer the community services block grant program through a tripartite board described in paragraph (2) that fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities.

(2) Selection and composition of board

The members of the board referred to in paragraph (1) shall be selected by the entity and the board shall be composed so as to assure that--

(A) $\frac{1}{3}$ of the members of the board are elected public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the board is less than $\frac{1}{3}$ of the membership of the board, membership on the board of appointive public officials or their representatives may be counted in meeting such $\frac{1}{3}$ requirement;

(B)(i) not fewer than $\frac{1}{3}$ of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and

(ii) each representative of low-income individuals and families selected to represent a specific neighborhood within a community under clause (i) resides in the neighborhood represented by the member; and

(C) the remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

(b) Public organizations

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In order for a public organization to be considered to be an eligible entity for purposes of [section 9902\(1\)](#) of this title, the entity shall administer the community services block grant program through--

(1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than $\frac{1}{3}$ of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members--

(A) are representative of low-income individuals and families in the neighborhood served;

(B) reside in the neighborhood served; and

(C) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this chapter; or

(2) another mechanism specified by the State to assure decisionmaking and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this chapter.

CREDIT(S)

([Pub.L. 97-35, Title VI, § 676B](#), Aug. 13, 1981, as added [Pub.L. 105-285, Title II, § 201](#), Oct. 27, 1998, 112 Stat. 2740.)

42 U.S.C.A. § 9911

§ 9911. Payments to Indian tribes

Effective: October 27, 1998

(a) Reservation

If, with respect to any State, the Secretary--

(1) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this chapter be made directly to such tribe or organization; and

(2) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this chapter,

Amanda J. Reeder
Commission Counsel

the Secretary shall reserve from amounts that would otherwise be allotted to such State under [section 9906](#) of this title for the fiscal year the amount determined under subsection (b) of this section.

(b) Determination of reserved amount

The Secretary shall reserve for the purpose of subsection (a) of this section from amounts that would otherwise be allotted to such State, not less than 100 percent of an amount that bears the same ratio to the State allotment for the fiscal year involved as the population of all eligible Indians for whom a determination has been made under subsection (a) of this section bears to the population of all individuals eligible for assistance through a community services block grant made under this chapter [[42 U.S.C.A. § 9901 et seq.](#)] in such State.

(c) Awards

The sums reserved by the Secretary on the basis of a determination made under subsection (a) of this section shall be made available by grant to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(d) Plan

In order for an Indian tribe or tribal organization to be eligible for a grant award for a fiscal year under this section, the tribe or organization shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe by regulation.

(e) Definitions

In this section:

(1) Indian tribe; tribal organization

The terms “Indian tribe” and “tribal organization” mean a tribe, band, or other organized group recognized in the State in which the tribe, band, or group resides, or considered by the Secretary of the Interior, to be an Indian tribe or an Indian organization for any purpose.

(2) Indian

The term “Indian” means a member of an Indian tribe or of a tribal organization.

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CREDIT(S)

(Pub.L. 97-35, Title VI, § 677, Aug. 13, 1981, as added Pub.L. 105-285, Title II, § 201, Oct. 27, 1998, 112 Stat. 2741.)

42 U.S.C.A. § 9912

§ 9912. Office of Community Services

Effective: October 27, 1998

(a) Office

The Secretary shall carry out the functions of this chapter through an Office of Community Services, which shall be established in the Department of Health and Human Services. The Office shall be headed by a Director.

(b) Grants, contracts, and cooperative agreements

The Secretary shall carry out functions of this chapter through grants, contracts, or cooperative agreements.

CREDIT(S)

(Pub.L. 97-35, Title VI, § 678, Aug. 13, 1981, as added Pub.L. 105-285, Title II, § 201, Oct. 27, 1998, 112 Stat. 2742.)

1 10 NCAC 97B.0401 is readopted as published in 31:20 NCR 2032 as follows:

2
3 **10A NCAC 97B .0401 GENERAL PROVISIONS**

4 Each applicant for programs funded under 10A NCAC 97C .0108 (a)(1) ~~administered by the Office~~ shall provide
5 citizens with ~~an adequate~~ opportunity for ~~meaningful~~ involvement ~~on a continuing basis~~ and for participation in the
6 planning, implementation, evaluation and assessment of the program. The applicant shall:

- 7 (1) provide ~~adequate~~ information to citizens;
- 8 (2) hold a public hearing at the initial stage of ~~the a multi-year~~ planning ~~process~~; process meeting
9 requirements of Rule .0402 (3), (4), (5) of this section;
- 10 (3) publish a notice of intent to file an application prior to the governing board's ~~approval~~, approval as
11 specified in Rule .0402 of this section and subsequent submission of the application to the ~~Office~~;
12 Division of Social Services;
- 13 (4) allow citizen participation on substantive amendments in the program; and
- 14 (5) provide an opportunity to comment on the applicant's performance.
- 15

16 *History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);*

17 *Eff. December 1, 1983;*

18 *Amended Eff. August 1, 2017; June 1, 1985; February 1, 1985; October 1, 1984.*

10A NCAC 97B .0402 is readopted as published in 31:20 NCR 2032 as follows:

10A NCAC 97B .0402 CITIZEN PARTICIPATION IN THE APPLICATION PROCESS

Each applicant for programs ~~funded by~~ under 10A NCAC 97C .0108(a)(1) ~~administered by the Office~~ shall develop and maintain procedures that meet the following requirements:

- (1) Solicit and respond ~~in a timely and appropriate manner~~ to reviews and proposals of citizens, particularly low-income persons, members of minority groups, and resident areas where activities are proposed. Applicants shall respond in writing to written citizen comments objecting to an application. The applicant shall consider written objections made only on the following grounds:
 - (a) The applicant's description of the needs, goals, and objectives is ~~plainly~~ inconsistent with available facts and data.
 - (b) The activities to be, or being, undertaken are ~~plainly~~ inappropriate to meeting the needs, goals, and objectives identified by the applicant.
 - (c) The application does not comply with the requirements of this Chapter or other applicable laws and regulations.

Responses to the written objection shall be made within 10 calendar days of receipt of the citizen comment.

- (2) Provide technical assistance to facilitate citizen participation, where requested. The level and type shall be determined by the applicant.
- (3) Provide adequate notices of public hearings in a timely manner and in such a way as to make them accessible and understandable to all citizens. A notice of the public hearing shall be given once a week for two successive calendar weeks in the non-legal section of a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.
- (4) Schedule public hearings to obtain citizen views and to respond to citizen proposals at times and locations ~~which~~ that permit broad participation, particularly by low income persons, members of minority groups, handicapped persons, and residents of project areas.
- (5) Conduct at least one public hearing at the initial stage of ~~the~~ a multi-year planning process to allow citizens the opportunity to express views and proposals.
- (6) Publish a notice of intent to file an application, at least one time in the non-legal section of a newspaper, having general circulation in the area, no less than 10 calendar days prior to final approval by the recipient's governing board. The notice shall specify the time and place the governing board shall meet to consider adopting a resolution (as required by Rule .0203(2)(b) of this Subchapter) to approve the application. The notice shall contain a description of the activities to be undertaken and the amount of funds requested in the application.
- (7) Persons wishing to object to the approval of an application by the ~~Office~~ Division of Social Services shall make such objection in writing. The ~~Office~~ Division of Social Services will consider objections made only on the following grounds:

- 1 (a) The applicant's description of the needs, goals, and objectives is ~~plainly~~ inconsistent with
2 available facts and data.
- 3 (b) The activities to be undertaken are ~~plainly~~ inappropriate to meeting the needs, goals, and
4 objectives identified by the applicant.
- 5 (c) The application does not comply with the requirements of this Chapter or other
6 applicable laws and regulations.
- 7 (8) All objections shall include both an identification of the requirements not met and, in the case of
8 objections made on the grounds that the description of needs and objectives is plainly inconsistent
9 with available facts and data, the data upon which the persons rely.

10

11 *History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);
12 Eff. December 1, 1983;
13 Amended Eff. August 1, 2017; October 1, 1984.

1 10A NCAC 97B .0403 is readopted as published in 31:20 NCR 2033 as follows:

2
3 **10A NCAC 97B .0403 CITIZEN PARTICIPATION IN THE PROGRAM AMENDMENT PROCESS**

4 (a) Each grant recipient funded under 10A NCAC 97C .0108(a)(1) shall respond to citizen objections and
5 comments in the same manner as in Rule .0402(1) of this Section.

6 (b) ~~All amendments-Amendments which~~ require prior Office Division of Social Services approval. ~~approval, also~~
7 ~~may require a public hearing. After determination by the Office that a public hearing is required, it shall be held in~~
8 ~~accordance with Rule .0402(3) and (4) of this Section.~~

9 (c) ~~The Office may determine that a hearing is required if a program is substantially changed by:~~

10 (1) ~~A new or amended state or federal statute or regulation requires a new provision, or conflicts with any~~
11 ~~existing plan provision;~~

12 (2) ~~A court decision changes the interpretation of a statute or regulation;~~

13 (3) ~~The grant recipient proposes to add, significantly modify, or delete any project.~~

14 (c) A public hearing shall be required if:

15 (1) The grant recipient proposes an objective or activities not included in the original work plan;

16 (2) There is an increase or decrease of total funds in excess of an aggregate of ten percent of the total
17 amount of the grant agreement; or

18 (3) There is a transfer of funds from the inception to the termination of the grant agreement between
19 projects in excess of an aggregate of five percent of the total amount of the grant agreement; and

20 (4) Public hearings shall be held in accordance with Rule .0402(3) and (4) of this Section.

21
22 *History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);*

23 *Eff. December 1, 1983;*

24 *Amended Eff. August 1, 2017.*

10A NCAC 97C .0104 is readopted as published in 31:20 NCR 2033 as follows:

10A NCAC 97C .0104 DEFINITIONS

For the purpose of this Subchapter, the following definitions apply:

- (1) Act. The Omnibus Budget Reconciliation Act of 1981, as amended, under which the Community Services Block Grant Program was established.
- (2) Community Action Agency (CAA). An agency ~~officially~~ designated and funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating an anti-poverty project and ~~which that~~ was funded by the Office in fiscal year 1985 to administer a Community Services Block Grant anti-poverty project or any agency designated ~~as such~~ by the Governor or his designee and determined to be eligible by the ~~Office~~; Division of Social Services.
- (3) Community Services Block Grant. The state administered Community Services Block Grant Program (CSBG).
- ~~(4) Limited Purpose Agency. An agency funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating projects for a specific target population, such as senior citizens, or for a specific program area, such as economic development and which was funded by the Office in fiscal year 1982 to carry out similar specific and limited projects.~~
- ~~(5)~~ (4) Local Administering Agency. ~~An agency funded by the Office to carry out programs in a single or multi county area.~~ Entities carrying out activities under 42U.S.C 9907(b) (1) (A-H) which may include Community Action Agencies.
- ~~(6)~~ (5) OCS. The Office of Community Services is established in the U.S. Department of Health and Human Services and is charged with the responsibility of administering the ~~program~~; various programs.
- ~~(7)~~ (6) Persons in poverty. For the purpose of the allocation of CSBG fund, persons in poverty is defined as the number of persons ~~who whose income fall~~ is below the poverty threshold established by the ~~U.S. Census Bureau, Bureau of Census, U.S. Department of Commerce.~~ The number of persons in poverty will be based on the most recent Small Area Income Poverty Estimates released by the U.S. Census Bureau available at the time of allocation determination. ~~available census data.~~ For the purpose of program eligibility, persons in poverty is defined as the persons who fall below the poverty guidelines updated periodically by the U.S. Department of Health and Human Services and released by the Division for use. ~~established by the Office of the U.S. Office of Management and Budget.~~
- ~~(8)~~ (7) Quarter. Each three months during the life of a grant agreement with a grant recipient.
- ~~(9)~~ (8) State Plan. The plan which sets forth how the State of North Carolina will use the funds allocated under ~~CSBG~~; CSBG.

History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);

1 *Eff. December 1, 1983;*
2 *Temporary Amendment Eff. November 20, 1985, for a Period of 73 Days to Expire on February 1,*
3 *1986;*
4 *Amended Eff. August 1, 2017; March 1, 1989; February 1, 1986; June 1, 1985; October 1, 1984.*

1 10A NCAC 97C .0106 is readopted as published in 31:20 NCR 2034 as follows:

2
3 **10A NCAC 97C .0106 ELIGIBLE GRANT RECIPIENTS**

4 Eligible grant recipients for CSBG funds include:

- 5 (1) community action agencies as defined in (2) of Rule .0104 of this Section; in any geographic area
6 of a state not ~~presently~~ served by an eligible entity, the Governor may decide to serve such a new
7 area by:
- 8 (a) requesting an existing eligible entity ~~which~~ that is located and provides services in an
9 area contiguous to the new area to serve the new area;
- 10 (b) if ~~not~~ existing eligible entity is located and provides services in an area contiguous to the
11 new area, requesting the eligible entity located ~~elosest~~ closest to the area to be served or an
12 existing eligible entity serving an area within reasonable proximity of the new area to
13 provide services in the new area; ~~or~~
- 14 (c) ~~where no existing eligible entity requested to serve the new area decides to do so,~~
15 designating any existing eligible entity, any private, non-profit organization which has a
16 board meeting the requirements of ~~Section 675(c)(3)~~ 42 U.S.C. 9910 ~~or any political~~
17 ~~suboffice of the state~~ to serve the new area. The Governor's designation of an
18 organization which has a board meeting the requirements of Section 675(c)(3) or a
19 political suboffice of the state to serve the new area shall qualify such organization as a
20 eligible ~~entity.~~ entity; or
- 21 (d) if no private, nonprofit organization is identified or determined to be qualified to serve the
22 unserved geographic area as an eligible entity the Governor may designate an appropriate
23 political subdivision of the State to serve as an eligible entity for the area. In order to
24 serve as the eligible entity for that area, the political subdivision shall have a board or
25 other mechanism as required under U.S.C. 42 9910 section 676B(b).
- 26 (2) ~~organizations serving seasonal or migrant farmworkers; and~~ Local Administering Agencies as
27 defined in (4) of Rule .0104 of this Section
- 28 (3) ~~limited purposes agencies as defined in (6) of Rule .0104 of this Section.~~

29
30 *History Note: Authority G.S. 143-276; 143-323(d); 143B-10(b); 42 U.S.C. 9901-12;*
31 *Eff. December 1, 1983;*
32 *Amended Eff. August 1, 2017; March 1, 1989; October 1, 1984.*

10A NCAC 97C .0108 is readopted as published in 31:20 NCR in 2034 as follows:

10A NCAC 97C .0108 ALLOCATION OF CSBG FUNDS

(a) Funds ~~allocated~~ to North Carolina under the CSBG Program will be ~~used in~~ Federal Fiscal Year 1989 ~~and in each subsequent federal fiscal year~~ as follows:

(1) ~~No less than Ninety ninety~~ percent of the funds ~~to make grants to those~~ allocated for contracting with eligible grant recipients Community Action Agencies as defined in Rule ~~.0106 (a) .0104(2)~~ of this Section which are re-certified as eligible agencies each fiscal year by the ~~Office, Division of Social Services~~. The amount of the funds allocated to each eligible grant recipient shall be based on the following method of distribution:

(A) Funds shall be allocated based on the ratio (percentage) of persons in poverty in the county (counties) served by the eligible agency compared to the number of persons in poverty in the total area (counties) served by all eligible agencies.

(B) ~~However,~~ No eligible agency shall receive less ~~than:~~ whichever is higher:

(i) An allocation of one hundred twenty thousand dollars (\$120,000), or

(ii) An allocation totaling eighty ~~Eighty~~ percent of the eligible agency's Federal Fiscal Year 1982 allocation, if the agency has maintained designation for all counties it was designated in Federal Fiscal Year 1982, whichever is higher.

(2) Five percent of the funds will be used by the ~~Office~~ Division of Social Services for administration of the CSBG program.

(3) The remaining five percent of the funds will be allocated in accordance with the current State CSBG Plan strategy which will be made publicly available. The Division of Social Services shall award no more than 40 percent of the total CSBG funds available under this allotment to a single Local Administering Agency as defined in Rule .0104 of this Section for activities that may include: ~~to make grants in Federal Fiscal Year 1989 and in each subsequent federal fiscal year to those limited purpose agencies as defined in Rule .0104 of this Section and which are re-certified as eligible agencies each fiscal year by the Office. The Office shall allot to each eligible Limited Purpose Agency an amount of funds based on the percentage of the total CSBG funds the eligible agency received of those funds reserved for the limited purpose agencies and the North Carolina Commission of Indian Affairs in federal fiscal year 1986.~~

(A) Providing training and technical assistance to those entities in need of such training and assistance;

(B) Coordinating State-operated programs and services, locally-operated programs and services, targeted to low-income children and families with services provided by eligible entities and other funded organizations, to ensure increased access to services provided by the State of North Carolina or local agencies;

(C) Supporting statewide coordination and communication among eligible entities;

(D) Analyzing the distribution of funds made available in this Rule to determine if such funds have been targeted to the areas of greatest need;

(E) Supporting asset-building programs for low-income individuals, such as programs supporting individual development accounts;

(F) Supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization;

(G) Supporting State charity tax credits; or

(H) Supporting other activities, consistent with the purposes of this Rule.

Any funds granted to Local Administering Agencies under this Rule shall be awarded through a prescribed selection process, to include a review body established by the Division of Social Services. The review body shall be comprised of no less than five individuals selected by the Division and who shall have knowledge in the areas of poverty, grants management, fiscal operations, grants monitoring and grants compliance. Funds not awarded through the prescribed selection process will be distributed in accordance with Subparagraph (a)(1) of this Rule.

~~(b) Beginning with federal fiscal year 1988 and effective for all subsequent fiscal years, eligible agencies will not be allowed to carry forward unearned funds at the end of a grant agreement to the succeeding grant agreement. All unobligated funds must be returned to the Office Division of Social Services within 60 days after the termination of the grant agreement.~~

~~(c) Supplemental CSBG Grants.~~ The preceding paragraphs of this Rule do not apply to the allocation of supplemental CSBG grants to North Carolina. Such allocations to eligible applicants for eligible activities will be made by the Office Division of Social Services in a manner ~~not inconsistent~~ which is compliant with federal guidelines and conditions on supplemental appropriations. The Office Division of Social Services has the flexibility to determine the number of grants awarded and the manner in which grantee(s) are selected based upon the amount of the allocation and the intent of the applicable legislation and regulations.

~~(d) Subject to requirements of 42 U.S.C. 9907, any funds distributed to a Community Action Agency through grants made in accordance with Subparagraph (a)(1) of this Rule which remain unexpended for a fiscal year shall be available to such Community Action Agency for obligation during that fiscal year and the succeeding fiscal year. Any unexpended allotment of CSBG funds from previous years grants shall be allocated to each eligible CSBG grant recipient for the following purposes:~~

~~(1) — to assist in the implementation of special statewide initiatives, and~~

~~(2) — for one-time expenditures to enhance local programs.~~

~~Ninety percent of these funds will be distributed to Community Action Agencies based on the ratio of persons in poverty in the county or counties served by the Community Action Agency compared to the number of persons in poverty in the total area served by all eligible Community Action Agencies. Ten percent of these funds will be distributed to those Limited Purpose Agencies as defined in Rule .0104 of this Section on an equal basis.~~

1 (e) Any unexpended funds aligned with Subparagraphs (a)(2) and (a)(3) of this Rule shall be distributed in
2 accordance with Subparagraph (a)(1) of this Rule for during that fiscal year or the succeeding fiscal year.

3
4 *History Note: Authority G.S. 143B-227; 143B-276; 42 U.S.C. 9901-12;*
5 *Eff. December 1, 1983;*
6 *Amended Eff. June 1, 1985; February 1, 1985;*
7 *Temporary Amendment Eff. May 5, 1987 for a Period of 120 Days to Expire on September 1,*
8 *1987;*
9 *Temporary Amendment Eff. August 24, 1987 for a Period of 68 Days to Expire on November 1,*
10 *1987;*
11 *Amended Eff. November 1, 1987;*
12 *Temporary Amendment Eff. August 1, 1991 for a Period of 180 Days to Expire on January 28,*
13 *1992;*
14 *Amended Eff. August 1, 2017; March 1, 1989.*

10A NCAC 97C .0109 is readopted as published in 31:20 NCR 2036 as follows:

10A NCAC 97C .0109 REQUIREMENTS/GOVERNING BODIES OF PRIVATE GRANT RECIPIENTS

(a) Each ~~eligible~~ private non-profit grant recipient funded under Rule .0108 (a)(1) of this Section ~~must~~ shall have a board of directors consisting of at least 15 members and not more than 51 members.

(b) The board of directors of private non-profit grant recipients funded under Rule .0108 (a)(1) of this Section shall be constituted so as to assure that:

- (1) one-third of the members of the board are elected public officials, ~~currently~~ holding office, or their representatives, except that if the number of elected officials ~~reasonably~~ available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement;
- (2) at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; and
- (3) the remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.

(c) Each public grant recipient funded under Rule .0108(a)(1) of this Section shall administer the community services block grant program through:

- (1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than 1/3 of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members:
 - (A) are representative of low-income individuals and families in the neighborhood served;
 - (B) reside in the neighborhood served; and
 - (C) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this subtitle; or
- (2) another mechanism specified by the State to assure decision making and participation by low-income individuals in the development, planning, implementation.

~~(d)~~ (d) All committees of the board of directors of ~~private~~ grant recipients funded under Rule .0108(a)(1) of this Section shall ~~fairly~~ reflect the tripartite and geographical composition of the board.

~~(4)~~ (e) In addition to the general powers granted under its state charter, the board of directors of the private grant recipients ~~must~~ shall possess the following specific powers:

- (1) to appoint the executive director of the agency;
- (2) to determine ~~major~~ personnel, organization, fiscal, and program policies;
- (3) to determine overall program plans and priorities for the agency, including provisions for evaluating progress;
- (4) to make final approval of all program proposals and budgets;
- (5) to enforce compliance with all conditions of the ~~Office's~~ Division of Social Services grants; and

1 (6) to oversee the extent and the quality of the participation of the poor in the program of the agency.

2

3 *History Note: Authority G.S. 143B-276; 143B-277; 143-323(d); 143B-10; 42 U.S.C. 9901-12;*

4 *Eff. December 1, 1983;*

5 *Amended Eff. August 1, 2017; February 1, 1985; October 1, 1984.*

10A NCAC 97C .0111 is readopted as published in 31:20 NCR 2036 as follows:

10A NCAC 97C .0111 CITIZEN PARTICIPATION

(a) Each grant recipient funded under Rule .0108(a)(1) of this Section is required to establish citizen participation policy and procedures. ~~Grant recipients are required to~~ shall hold public hearings to meet the requirements of Rule .0401(5) of Subchapter 97B only during the initial planning when a new multi-year plan is to be developed.

(b) ~~The following special requirements on the Community Anti Poverty Plan (application for CSBG funds) shall be met.~~ Community action agencies funded under Rule .0108(a)(1) of this Section shall hold one public hearing for review and comment in each county it serves prior to submission of the Community Anti-Poverty Plan to the Division of Social Services. Grant recipients funded under Rule .0108(a)(3) of this Section shall meet the public review requirements by submitting a copy of their plan to the review body specified in Subparagraph (a)(3) of Rule .0108 of this Section.

~~(1) Community action agencies shall meet the following requirements:~~

~~(A) Submit their Community Anti Poverty Plan to their local board(s) of county commissioners in each county served by the agency for their review and comment prior to submission to the Office, Division of Social Services. County commissioners will~~ shall be given 30 days to comment on the application.

~~(B) Hold one public hearing for review and comment in each county it serves prior to submission of the Community Anti Poverty Plan to the Office.~~

~~(2) Limited purpose agencies shall meet the public review requirements by submitting a copy of their plan to the State Clearinghouse, Department of Administration for review. Any comments from the State Clearinghouse shall be submitted to the Office by the applicant within 10 working days of receipt of the Work Plan.~~

(c) Each grant recipient ~~is~~ shall be responsible for establishing special procedures to ensure that the poor are able to participate ~~meaningfully~~ in the decisions and activities of the grant recipient. These procedures shall include provisions for:

~~(1) Advance notice of and the agenda (an outline of matters to be considered)~~ Notification for any board or committee ~~meetings.~~ meetings to include the agenda items. These shall be provided individually to all members of the board and/or committees in writing at least five days before the meeting. In addition, notices should be given to the local public media and posted in all the grant recipient's neighborhood and/or community centers.

~~(2) Adequate information~~ Information about standards of program effectiveness. This information shall be given to the representatives of the poor to permit them to plan for and evaluate agency programs and to set priorities for the use of funds and other resources. Evaluations of programs and their operation shall consider the views of the poor on the board, as well as the views of program participants and area residents.

~~(3) Adequate information~~ Information and training for board members about their functions, duties, and responsibilities and the issues which will come before them. This will permit board members to make the

1 fullest possible contribution to the work of the board. In this connection, the by-laws of the agency shall be
2 distributed and fully explained to members of the board.

3 (4) Developing effective involvement of the poor in each major program. This involvement may be in the
4 form of a program advisory committee or neighborhood council made up of target area residents. The
5 committee and council may advise the grant recipient on program priorities, participate in the development
6 of ~~pertinent parts~~ of the grant application, review and comment on programs and policies, and participate in
7 the evaluation of programs.

8 (5) The grant recipient in the planning process of its Anti-Poverty Plan, shall annually hold a sufficient
9 number of meetings to ascertain from low-income residents their suggestions, recommendations, and
10 priorities for eliminating poverty. The grant recipient shall provide ~~adequate~~ information and training to
11 the low-income residents to ensure their ~~effective and meaningful~~ involvement in this planning process.
12 The recommendations, suggestions, and priorities of the low-income residents ~~will~~ shall be reviewed by the
13 board of directors in its determination of programs to be implemented by the grant recipient, and will be
14 maintained by the grant recipient for public inspection.

15
16 *History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);*
17 *Eff. December 1, 1983;*
18 *Amended Eff. August 1, 2017; October 1, 1984.*