

Corporation for Public Broadcasting Community Advisory Board Requirements

<http://www.cpb.org/stations/certification/cert3.html>

I. THE LAW

A. Section 396(k)(8) of the Communications Act provides that:

"(A) Funds may not be distributed pursuant to this subpart to any public broadcast station (other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency) unless such station establishes a community advisory board. Any such station shall undertake good faith efforts to assure that: (i) its advisory board meets at regular intervals; (ii) the members of its advisory board regularly attend the meetings of the advisory board; and (iii) the composition of its advisory board are reasonably representative of the diverse needs and interests of the communities served by such station.

"(B) The board shall be permitted to review the programming goals established by the station, the service provided by the station, and the significant policy decisions rendered by the station. The board may also be delegated any other responsibilities, as determined by the governing body of the station. The board shall advise the governing body of the station with respect to whether the programming and other policies of such station are meeting the specialized educational and cultural needs of the communities served by the station, and may make such recommendations as it considers appropriate to meet such needs.

"(C) The role of the board shall be solely advisory in nature, except to the extent other responsibilities are delegated to the board by the governing body of the station. In no case shall the board have any authority to exercise any control over the daily management or operation of the station.

"(D) In the case of any public broadcast station (other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency) in existence on the effective date of this paragraph, such station shall comply with the requirements of this paragraph with respect to the establishment of a community advisory board not later than 180 days after such effective date.

"(E) The provision of subparagraph (A) prohibiting the distribution of funds to any public broadcast station (other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency) unless such station establishes a

community advisory board shall be the exclusive remedy for the enforcement of the provisions of this paragraph."

II. INTERPRETATIONS

A. Privately Owned Stations

The Community Advisory Board requirement provisions apply to all stations except those stations that are owned and operated by a State, a political or special purpose subdivision of a State, or a public agency. Thus, if a station is privately owned (as are all community licensees, as well as stations owned by private universities and other private organizations), it must, without exception, comply with these provisions. CPB does not provide legal advice to a station about whether its state's laws make it an entity that falls into the exception to the community advisory board requirement. It is up to each station to determine whether it is required to have a community advisory board, and act accordingly.

B. Nature of the Community Advisory Board

1. The law provides that "[t]he role of the board shall be solely advisory in nature...." It also stipulates that the board shall advise the governing body of the station and therefore must be distinct from and independent of the governing body. The purpose of the advisory board is to provide a vehicle for effective community input to the station's governing body about station programming, community service and impact on the community from the station's major policy decisions. Congress believed that the establishment of community advisory boards would assist the stations to develop programs and policies that address the specific needs of the communities that they endeavor to serve.

2. The law is not intended to preclude stations from establishing and maintaining other types of advisory bodies.

C. Relationship of the Community Advisory Board to the Governing Board of the Station

1. The law segregates the management and operational functions of the governing board from the functions of advisory board to ensure a clear demarcation between the governing board and the advisory board.

2. The advisory board is intended to provide the public the opportunity to be heard on station programming, community service and impact on the community of major policy decisions. All

stations are encouraged to establish whatever mechanisms will be most effective, under local circumstances, to accomplish this congressionally established goal.

D. Composition of Community Advisory Boards

The station may exercise a reasonable degree of discretion in selecting advisory board members. The board should be reasonably representative of the diverse needs and interests of the communities served by the station. No individual representative of any particular group has a legal right to membership on an advisory board. Nor does the law empower any person, court, or government agency to require a station take or refrain from taking any action with respect to a station's programming or policies. The composition of the community advisory board must reflect its independent role, and may not include members of the station staff or governing body in anything other than an ex officio or administrative capacity.

E. Result of Noncompliance

CPB may not distribute any of its funds to any community-licensed public broadcasting station that does not have an advisory board which meets the requirements of the law. This prohibition against the distribution of funds is the exclusive remedy for enforcement of this requirement.

III. MINIMUM COMPLIANCE REQUIREMENTS

A. Each station that is not owned by a State, a political or special purpose subdivision of a State, or a public agency must do the following --

1. establish a community advisory board that is independent of the community licensee's governing body;

2. undertake good-faith efforts to assure that --

a. its advisory board meets at regular intervals;

b. the members of the board regularly attend the meetings of the advisory board;

c. the composition of the community advisory board is reasonably representative of the diverse needs and interests of the communities served by the station.

B. In addition, each licensee required to have a community advisory board must also permit the community advisory board to perform the following activities:

1. establish and follow its own schedule and agenda, within the scope of the community advisory board's statutory or delegated authority;
2. review the programming goals established by station;
3. review the community service provided by the stations;
4. review the impact on the community of the significant policy decisions rendered by the station; and
5. advise the governing board of the station whether the programming and other significant policies of the station are meeting the specialized educational and cultural needs of the communities served by the station. The advisory board may make recommendations to the governing board to meet those specialized needs.

C. The governing board of a licensee, if it desires, may delegate other responsibilities to the advisory board to assist the governing board or station personnel. However, the law states: "In no case shall the [community advisory board] have any authority to exercise any control over the daily management or operation of the station."

IV. SUGGESTIONS FOR COMPLIANCE

Due to the specialized needs of each service community and the variety of station organization types, it may be more confusing than helpful to suggest ways to use community advisory groups. Maximum flexibility will better serve stations, allowing the composition, organization, and role of advisory groups to be tailored to the individual needs of the respective communities.

A licensee that owns more than one station should be aware that the law requires each station covered by this provision to have a community advisory board. A licensee with multiple stations may, at its discretion, establish a community advisory board that is shared among the stations if that community advisory board can meet all the minimum compliance requirements for each of the stations that share a community advisory board.

V. CPB PROCEDURES FOR COMPLIANCE AND CERTIFICATION

A. Documentation

1. Each community-licensed station, after reviewing the above information, is to develop documentation indicating the manner of compliance with this requirement. This documentation

shall indicate, for example, the existence of a community advisory board, the mechanism used to determine its composition, organization, schedule of meetings and attendance records, the role that it plays with respect to the station, and its position relative to the organization of the station. Continued documentation of the activities of the advisory board is also encouraged.

2. The documentation shall be kept at a reasonable location by each station and be made available to CPB, upon request, to determine the fact and extent of compliance. The documentation shall also be available to CPB auditors upon request in the course of a periodic audit.

B. Certification

1. CPB currently requires that each recipient of a CPB station grant certify its continued compliance with the community advisory board requirements. This annual certification is part of the Certification of Eligibility form(s) which are included Integrated Station Information System ("ISIS") and must be filled out by each CPB station grantee.

2. All such Certification of Eligibility forms must be completed in their entirety and executed by two different individuals: (1) an authorized official of the licensee responsible for executing grants and/or contracts for the licensee who has knowledge and authority to certify that the licensee and its station meet or exceed each of the eligibility criteria listed in the Certification of Eligibility (e.g., chairman, treasurer or secretary of the board of directors, university vice president for finance, president of the school board); and (2) the chief executive officer in charge of the operation of the station (e.g., president, general manager, or station manager).

Contact CPB