

962 CMR: MASSACHUSETTS CULTURAL COUNCIL

962 CMR 2.00: LOCAL AND REGIONAL CULTURAL COUNCIL OPERATIONS AND PROCEDURES

Section

- 2.01: Scope and Purpose
- 2.02: Purpose of Local and Regional Cultural Councils
- 2.03: Cultural Access
- 2.04: Establishment of Local and Regional Cultural Councils
- 2.05: Management of Local Council Funds
- 2.06: Local Administrative Expenses
- 2.07: Duties of Local and Regional Cultural Councils
- 2.08: Optional Activities of Local and Regional Cultural Councils
- 2.09: Local Grant Approvals
- 2.10: Assuring Compliance with LCC Duties

2.01: Scope and Purpose

The purpose of 962 CMR 2.00 is to provide guidance to local and regional cultural councils about their operations and procedures. 962 CMR 2.00, and supplementary guidelines promulgated independently by the Massachusetts Cultural Council (MCC), are designed to be effective for fiscal 2012 and thereafter. Both are promulgated by the Massachusetts Cultural Council incident to its power to issue guidelines, rules, rulings, or regulations for the use of funds allocable to it and for local or regional cultural council operations and procedures.

2.02: Purpose of Local and Regional Cultural Councils

The purpose of the local and regional cultural councils is to support public programs that promote access, education, diversity, and excellence in the arts, humanities, and interpretive sciences in communities across the Commonwealth. Local decision-making is an integral element of this system. Local councils have the right and responsibility to award grants that address cultural needs specific to their communities, and can decide how to distribute funds as long as the state policies outlined in 962 CMR 2.00 and supplementary guidelines are followed.

2.03: Cultural Access

Local councils have an especially important role in insuring that cultural opportunities are made accessible to all segments of the Commonwealth's population, including all racial and ethnic groups, individuals with differing abilities, veterans, and women. The MCC and local councils are committed to cultural access both as a matter of policy and of law, and high priority should be given to projects that address the needs of underserved audiences, including low-income, inner city, and rural populations.

2.04: Establishment of Local and Regional Cultural Councils

Every community in the state is eligible to receive funds from the MCC if the appropriate local town or city officials establish a local council and appoint council members who take on the responsibility for distributing funds on behalf of the community.

Cities and towns may also join forces in the establishment of regional councils, and are encouraged to do so. A regional cultural council shall be eligible to receive a total allocation equal to the combined individual allocations of the communities participating in the regional cultural council. If two or more towns wish to form a regional council, there must be at least one representative appointed from each community in the consortium. Regional consortia must also be approved by the MCC. (Local Councils may consult the provisions of M.G.L. c. 10, § 58).

Local councils consist of at least five but no more than 22 members appointed by the top appointing official in the community (*i.e.*, the mayor, city manager, board of selectmen, or executive officer). Council members should have a demonstrated interest or record of service to the arts, humanities, or interpretive sciences. The chief appointing authority and members of the local appropriating authority, as defined in M.G.L. c. 59, § 21C, cannot serve as council members.

2.04: continued

The term of membership for a council member is three years; members can serve a maximum of two consecutive terms, or a total of six years, unless the appointing authority removes a member before the expiration of a term as provided in 962 CMR 2.10. Members must remain off the council for a one-year interval before serving additional terms. Each council must annually elect a chair, secretary, and treasurer. To preserve continuity of operations, the terms of individual council members should be staggered (that is, there should never be 100% turnover of members in a single year, unless the MCC determines otherwise, as provided in 962 CMR 2.10). Local councils may also elect to designate former officers or members as non-voting, *ex officio* council members.

2.05: Management of Local Council Funds

Each local council must keep *all funds* (state funds from the MCC interest earned and locally raised funds) in the LCC's municipal account. The LCC's municipal account must be a revolving account kept separate and apart from all other monies administered by the city or town treasurer as specified by M.G.L. c. 10, § 58. Councils are entitled to interest on their municipal account and to regular financial reports from the municipality. The funds may be spent as the local council directs, but may be accessed only through the process used by the community's treasurer and/or accountant's office for the expenditure of public funds. Separate checkbooks or non-municipal accounts are not permissible.

Locally raised funds and interest earned can be spent at the discretion of the local council, but only to support the arts, humanities and interpretive sciences. Unlike state funds distributed to the LCC from the MCC, prior MCC approval for expenditure of locally raised funds and interest earned is not required.

An LCC may not accumulate unspent state funds at the local level. Unspent funds accrue for various reasons, typically because previously approved projects were completed for less than the amount awarded, or not completed at all. Unspent state funds from prior fiscal years must be accounted for, reported to the MCC, and regranted in the next available funding cycle stipulated by the timeline set forth by the MCC. Generally, grant recipients have one year after final notification of an award to spend that award. However, an LCC may, at its own discretion, approve a reasonable extension for a grant recipient.

In summary, if the original source of the funds was the MCC, the LCC must use the MCC process and timeline for redistributing these funds.

2.06: Local Administrative Expenses

Local councils may use up to 5% of their state allocation each funding cycle for administrative expenses such as paid staff, postage, stationery, publicity, and so on. They may also use any interest earned on their state allocation or locally raised funds for administrative expenses without being subject to any such percentage limit. Local council members cannot receive compensation, but can receive reimbursement for expenses. Additional guidelines regarding administrative expenses can be found in the MCC's *Local Cultural Council (LCC) Guidelines* promulgated by the MCC independent of its formal regulations.

2.07: Duties of Local and Regional Cultural Councils

- (1) Each local or regional cultural council has a number of mandatory duties:
 - (a) Soliciting community input and assessing local cultural needs (962 CMR 2.07(2));
 - (b) Establishing priorities and guidelines for the review of local grant applications (962 CMR 2.07(3));
 - (c) Communicating with the public (962 CMR 2.07(4));
 - (d) Reviewing and recommending action on local applications (962 CMR 2.07(5));
 - (e) Reporting to the Massachusetts Cultural Council (962 CMR 2.07(6));
 - (f) Carrying out other necessary administrative functions (962 CMR 2.07(7)).
 - (g) Complying with guidelines, rules, rulings, or regulations promulgated from time to time by the MCC.

2.07: continued

(2) Community Input. Each local council is responsible for insuring that its grants and programs benefit the community to the greatest extent possible. To this end, each council must conduct regular assessment of cultural needs within its community. Councils should refer to the *LCC Guidelines* for specific procedures.

(3) Establishing Local Funding Priorities. Based on its community input process, each council is then responsible for determining its own funding priorities. While all councils are strongly encouraged to develop written local funding guidelines, councils receiving more than \$20,000 are required to do so. If a council does have local guidelines, it must make them available to prospective applicants. Autonomy is encouraged in the establishment of local funding priorities, as long as these are within the parameters of the guidelines established by the MCC.

(4) Communicating with the Public. Local councils are responsible for promoting local awareness of their programs; informing the public of the availability of funds; publicizing the names, addresses, and telephone numbers of the local council office or contact person; communicating with grant applicants and recipients; and such other duties as the MCC may from time to time elaborate through guidelines, rules, rulings, or regulations. Councils will be assisted in this work by the MCC, which will maintain a database on local councils, help publicize the state-wide local deadline, assist in the distribution of applications, and so forth.

(5) Reviewing and Recommending Action on Local Applications. Guidelines regarding local eligibility, review criteria, and procedure for the review of applications are laid out in detail in the *LCC Guidelines*, including an appendix relating to the Open Meeting and Conflict of Interest Laws applicable to local councils.

(6) Reporting to the Massachusetts Cultural Council. The reporting requirements of local councils and guidelines regarding periodic state audits are set forth in the *LCC Guidelines*.

(7) Other Necessary Administrative Functions. Additional administrative functions include the handling and reimbursement of payment requests; all necessary record-keeping; establishment of a local office (if applicable); maintaining communications with the local treasurer; monitoring financial reports; and other tasks as necessary for the efficient operation of the council.

2.08: Optional Activities of Local and Regional Cultural Councils

(1) Local or regional cultural councils have broad powers under the provisions of M.G.L. c. 10, § 58. In addition, they may:

- (a) Fundraise from sources other than the state (962 CMR 2.08(2)); and
- (b) Initiate local or regional council-originated projects (962 CMR 2.08(3)).

(2) Fundraising from Sources Other than the State. Local or regional councils are encouraged to leverage funds from sources other than the state, including private contributions, local government allocations, program revenues and interest from the LCC's municipal account. To enhance the opportunity for the donors of such funds to qualify their gift as deductible for federal income, gifts and estate tax purposes, funds received by gift to a local cultural council are considered to be donated to a political subdivision of the Commonwealth exclusively for public purposes as defined in Section 170(c) of the Internal Revenue Code of the United States.

Regardless of the source, all of a local council's funds must be used to support programs in the arts, humanities, or interpretive sciences in Massachusetts, and should meet the other substantive requirements set forth in the *LCC Guidelines*. Locally raised funds and interest earned must be kept in the LCC's municipal account with the LCC's state funds (as specified by 962 CMR 2.05). Locally raised funds and interest earned should be identified on the books of the city or town as funds derived from sources other than the MCC. Unlike state funds distributed to the LCC from the MCC, prior MCC approval for expenditure of locally raised funds and interest earned is not required.

2.08: continued

(3) Initiating Council-originated Projects. Local cultural councils are themselves eligible to apply for funds for local council-originated programs that respond to cultural needs that are not otherwise being addressed in the community. Councils should refer to the *LCC Guidelines* for information about eligibility, review criteria and procedures.

Funds raised locally from local council-originated projects must be kept in the LCC's municipal account. LCCs must observe the process and procedures outlined in 962 CMR 2.05 and 2.08(2) that detail how these funds must be kept, distributed and reported.

2.09: Local Grant Approvals

The process by which local or regional cultural councils decide the use of state funds allocable to them and then seek approval from the MCC are set out in the following *LCC Guidelines*. In general, however, approval by the MCC is contingent upon local councils demonstrating compliance with the provisions of 962 CMR 2.00 and those guidelines. Because funds can no longer be held over at the state level, for the benefit of a local council, the MCC may elect to re-allocate the funds not certified to other local or regional cultural councils.

2.10: Assuring Compliance with LCC Duties

An LCC must comply with its duties as specified in 962 CMR 2.00 and elsewhere in the *LCC Guidelines*.

When the MCC finds an LCC has not adequately complied with its duties, the MCC may suspend all or a part of MCC funding for that LCC. The MCC may also specify corrective actions that the LCC must take before the LCC can begin to receive funds again. If an LCC fails to take corrective action specified by the MCC, within a time frame specified by the MCC, the MCC may redistribute any funds allocated to that LCC.

If an LCC appears unable to comply not only with its duties but also with corrective actions specified by the MCC, then the MCC may determine that a partial or complete change in the membership of the LCC may be in order to enable the community to begin receiving its funds again. In these extraordinary cases, the MCC may authorize the local appointing authority to remove a member or members from the LCC and appoint a new member or members.

REGULATORY AUTHORITY

962 CMR 2.00: M.G.L. c. 10, §§ 52 through 58.