

EXECUTIVE DIRECTOR TRANSITION RECOMMENDATIONS

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EXECUTIVE DIRECTOR TRANSITION RECOMMENDATIONS

BACKGROUND

The Massachusetts Legal Assistance Corporation (MLAC) recommends that legal aid program boards of directors adopt policies when facing a transition for the successful preparation for hiring and transition to a new executive director. These guidelines contain principles and process suggestions for conducting an effective transition and fostering diversity in the leadership of legal services programs.

Legal aid directors, the boards of legal aid programs, the Massachusetts Legal Services Diversity Coalition, and the MLAC Board of directors and staff have long been concerned about the lack of diversity among the executive directors of legal aid programs in Massachusetts. There are many reasons for the inability of boards of directors to successfully recruit qualified candidates of color and women, the first step in hiring and retaining diverse executive directors. Central among those reasons, we believe, is the difficulty of successfully managing a transition to a new executive director. Finding and selecting a new executive director is one of the most important tasks a board of directors is called upon to perform. The transition process, consequently, puts enormous strain on the entire organization including the clients and the supporters of the program.

The difficulty of the task is multiplied when, as is the case throughout Massachusetts, the executive director has served for considerable periods of time, some for several decades, and embody the organization in significant ways. Our own experience in Massachusetts demonstrates that programs that approach the task thoughtfully and comprehensively achieve better results. The need for increased attention to executive director transition is set out in some detail below.

We believe that the entire organization must engage the board, clients and staff in a comprehensive, thorough process in a review of its current strengths and weaknesses, and an examination of its future direction in order to produce the most successful outcome. We also believe that diversity concerns are, and must be, an integral part of the process and cannot be separated and treated as an option to do only if there is time. For those reasons these recommendations set out the most successful strategies among non-profits regarding how to manage successful executive director transitions. We recognize that the recommendations will have to be adapted to fit the needs of each specific organization and for that reason do not intend for them to be read as rigid prescriptions for action. They do, however, give comprehensive guidance to the boards of programs facing a transition and we urge that the boards of such programs think carefully about the entire process before discarding portions of the recommendations.

The lack of race and gender diversity among the staff of legal aid programs in Massachusetts and throughout New England is evident. No board of directors, however well intentioned and diligent will be able to find diverse candidates among legal aid programs if they are not there. There is a collective responsibility, as programs have begun to recognize and address, to recruit, hire, identify and train new leaders of legal aid programs from diverse backgrounds. Boards of directors facing executive director transitions will not be able to look solely within other legal aid programs for candidates if they are to develop a diverse pool of candidates. Boards will need to look search as broadly as possible to achieve their diversity goals.

Because we believe that these recommendations represent best practices, they are stated, in most instances, as something that “should” be done. We do so for clarity and not to detract from the obligation of the board of directors and executive director to decide how to apply the recommendations. Finally, we

recognize that a well run organization will likely have no need to carry out some of the specific tasks that they are attended to on a routine basis. (See, for example, “1. General Departure and Preparation Recommendations, C, 3-5, p.4.”)

We recognize that programs may wish to ask legal counsel to review any policies relating to executive director transitions as they do with more general hiring policies.

EXECUTIVE DEPARTURES: A CRITICAL TIME

The executive director is the most critical position within an organization. When an executive director leaves prematurely or without planning, staff turnover may increase, programs and special initiatives may lose momentum, services may weaken, and some organizations may tailspin into crisis. Carefully planned executive transitions can minimize these consequences and lay the groundwork for new leadership, innovation and ideas. Executive director departures present many challenges and opportunities that the board and staff need to be prepared to handle to make the organization’s transition effective.

Other reasons for planning effective executive transitions include:

- *Executive director retirement is occurring earlier and tenure is decreasing.* On average, more than one in ten non-profit executive director jobs turns over each year.¹ That number is projected to climb by 15 percent or more as the baby-boomer generation--many of whom founded organizations in their communities 20 to 30 years ago--begins to reach retirement age.² Executive tenure is also shortening. Approximately 71% of non-profit executive directors in Southern New England expect to leave their current position within five years.³ Many legal aid directors in Massachusetts are now approaching normal retirement ages.
- *It is a diversity issue.* In Southern New England, there are a higher percentage of non-profit executive directors who identify themselves as White/Anglo (close to 90%) than in other regions studied in the United States.⁴ That percentage is higher in legal services programs in New England. As of March 2005, in Massachusetts there were no people of color among the 23 legal assistance programs. Research also shows in the Southern New England region that women outnumber men among nonprofit executive directors (58.9%). However, as of March 2005, there were six female executive directors among Massachusetts legal services programs. As more baby-boomer generation executives retire, there will be more opportunities for increasing diversity among executive directors, particularly with regard to race and gender diversity.
- *It is a funding issue.* Many funders fear executive transitions if they have a positive relationship with the outgoing executive director and trust the director’s abilities. Although it is unusual, some funders may push for a change in executive leadership in cases of mismanagement. Funders watch these transitions closely to determine if they will continue their financial commitments.

¹ www.transitionguides.com

² *Ibid.*

³ *Executive Director Tenure and Transition in Southern New England, Gale Randall and Suzanne Maas, 2004.*

⁴ *Ibid.*

I. General Departure and Preparation Recommendations

In the executive director transition process, the director, board, and staff each has a critical role to play. The following are general recommendations for preparing for the departure of an executive director. A fundamental recommendation is that the board and executive director discuss the director's plans regarding tenure and executive director transition as a regular part of the director's annual evaluation.

A. The departing executive director should:

1. Give as much notice as possible of the director's resignation to the board and staff. The length of resignation may depend on how long the director has held the position, the status or fragility of the program and the transition plans in place.
2. Develop a departure communication strategy first to the board and in consultation with the board then to staff and the broader community explaining why and when the director will be leaving.

B. The board should:

1. Strengthen its leadership by becoming more active and engaged in the organization and taking stock of existing board roles, relationships, and expectations.
2. Ensure that the executive director, board, managers, and staff are in regular communication about the transition process as it unfolds.

C. The board, executive director and staff working together should:

1. Notify key funders of the impending departure of the director and plans for a carefully planned transition.
2. Minimize the impacts of the departure on staff morale and retention by fostering communication, teambuilding, and attending to employee relationships.
3. Ensure that enough funds are available at the time the new director starts for operating expenses and to avoid financial crisis management. During this transition the board may empower its finance committee to meet more frequently to oversee spending if there is a concern about the program's fiscal situation.
4. Handle any pending major legal issues affecting the internal organization.
5. Work to ensure that the bookkeeping, records, information systems and physical property are secure and maintained during the transition.

II. Transition Committee to Oversee Process

Leading and managing the transition process is the responsibility of the board. In carrying out those tasks, the board may appropriately engage others. For example, the board, staff and outgoing executive director should establish a group (for clarity such a group will be referred to as a "Transition Committee") to (1) guide the program through a mini organizational assessment to determine immediate organizational priorities and needs, (2) develop and implement a plan for the hiring and orientation of the new director, and (3) ensure a smooth leadership transition from the outgoing executive director to the new executive director. Smaller boards may not need to establish a separate group to engage in this work.

- A. The transition committee or other body should:
1. Be responsible for the overall transition process.⁵
 2. Consist of board and staff leaders and such other persons as will represent a broad spectrum of interest in program.
 3. Strive for diversity on the committee, particularly with regard to race, gender, and organizational position.
 4. Report to and make recommendations to the full board with input and involvement from the staff.
 5. Develop a plan, timetable, and budget for its work.
 6. Hire an outside organizational development consultant to give advice to the transition committee throughout the process, unless there are compelling reasons not to do so.⁶
- B. Mini organizational assessment:
1. The transition committee or the full board should decide on the scope of the mini organizational assessment with input from stakeholders.
 2. The assessment should involve staff and other stakeholders and examine current organizational strengths, weaknesses, opportunities, threats, priorities and resources before the new executive director joins the organization. The assessment should also be designed to reach agreement on the ideal characteristics of the new executive director.
 3. The board, staff and the newly hired executive director may wish to pursue a full strategic planning process once the new executive director is situated in her role, has enough information to share her vision, and resources are available.

III. Search and Hiring Process

The board should adopt specific hiring protocols to conduct a search process for the new executive director.⁷ The following protocols are suggested.

- A. Interim Director
1. Many legal services programs have found that naming an interim director has been useful. The board should consider if it will need an interim executive director. An interim director may be

⁵ Duties and characteristics of a typical transition committee: (1) develop and implement a plan for the hiring and orientation of the new ED, (2) guide the organization through a mini strategic planning process to determine immediate organizational priorities and needs, and (3) ensure a smooth leadership transition from the outgoing ED to the new ED. The committee should consist of board chair, board personnel chair (if applicable) and the AA officer. In addition, the board should determine if other key board member(s), the outgoing ED, management and non-management staff, and union and non-union staff should be included. The committee should be diverse by race, gender, age and other key diversity characteristics that are identified. The committee should not be too large and should be chaired by the board chair. The transition committee should report to and make recommendations to the full board with significant input and involvement from the staff.

⁶ Because the transition process will be time consuming and because everyone involved will likely have a personal stake in the outcome, an outside consultant or facilitator is often useful to keep the process on track and on schedule and to provide skilled neutral leadership for what may be difficult conversations and decisions.

⁷ We strongly recommend that the Diversity Coalition be invited to speak at full board meeting about engaging in an open and dynamic hiring process that will attract diverse candidates.

necessary if the departing director provides little notice or the departure will occur significantly before the new director is hired and oriented, or if the board anticipates it will have difficulty in acquiring a diverse candidate pool. An interim executive director may be an outside consultant, or an internal person such as a deputy director, associate director, other managing staff or board member. Generally, an interim director should not be a candidate for the permanent position, unless they are a serious candidate for the position⁸, possess the qualities and skills necessary for long-term leadership, and their involvement in the search process would not provide them with an unfair advantage.

2. The interim director and the board chair should establish a temporary chain of command and system for decision-making and communication among board, staff, funders, and volunteers to ensure a smooth interim transition.

B. Planning & Structure

1. The board may decide to hire a search firm to lead the search for the permanent executive director. Search firms may offer valuable assistance with recruitment, initial screening, and advice about effective resume review, interview and hiring techniques. These firms should have extensive experience in outreaching to diverse candidates. Some firms may be strong search firms, but may not have the organizational development skills to assist with activities that need to happen before and after the search process. Organizational development or executive transition consultants may be more helpful with non-search activities. Your organization should explore the advantages and disadvantages of working with search or other types of consultants to assist you with this process.
2. The board may decide to delegate many of its hiring functions, but, the full board should be fully informed about and approve the major steps taken as the process moves forward. If the board decides to delegate its functions it may appoint the transition committee, or/and other body to conduct the hiring process. This “hiring body’s” (which could be the transition committee) responsibilities could include developing a plan and timetable that includes drafting a job description to be approved by the board, supporting recruitment, ensuring diversity in the applicant pool, reviewing resumes, and conducting interviews.
3. Board members and/or members of the hiring body may benefit from training or consultation from the diversity coalition or others on effective diversity hiring practices.

C. General Practices

1. The board should establish a salary range for the new executive director. It should be prepared to negotiate vacation and sick leave, benefits, incentives (sabbaticals, relocation costs, bonuses, etc.) when necessary to be able to hire the best qualified candidate who can advance the goals of the program.
2. The board and staff should identify the diversity needs (i.e., women, people of color), of the program based on community demographics, cultural groups and populations in the surrounding legal aid community to determine an effective recruitment strategy and to ensure that the candidate pool is appropriately diverse.

⁸ Some organizations will offer the interim director a courtesy interview when they are not serious about the candidate. This has led to compromised search efforts and ill feelings on the part of the interim director who applies.

D. Hiring Criteria

1. Based on the organizational assessment, the board should specify the vision and values the executive director should possess and the needs of the program and system that the new director would address.
2. The board should adopt directly or approve hiring criteria related to such factors as work experience and potential, leadership and management skills, personal attributes relevant to the position, and whether the candidate comes from a diverse background and/or has a track record of instituting diversity and community/client empowerment in an organizational setting.⁹

E. Job Description

1. The hiring body should develop a job description to be approved by the board that sets out key information about the program and outlines the vision and values; roles and responsibilities; hiring criteria; reporting information and salary range.
2. The job description should also include language that explicitly encourages specific applicants to apply, for example, “female, people of color, etc., candidates are strongly encouraged to apply.”

F. Recruitment

1. The hiring body should circulate the job description within the program and the legal services system and to external locations, media outlets and website groups. There may be excellent candidates within the program or legal services system. Diversity within middle management is a legal services priority and conducting outreach to this group may also be useful. A more complete listing of recommended places to advertise is found in the *Executive Director Outreach Checklist* (attached).
2. To increase the chances of obtaining a diverse candidate pool, the hiring body may wish to ask board and staff to provide suggestions for candidates to whom postings can be sent. Direct contact with these candidates encouraging them to apply may also be useful.
3. It may well be necessary for the board not only to identify good candidates but also to “sell” them on the program. Some of the best candidates may be reluctant to leave their present jobs or may have multiple offers. Especially for out of town candidates who will often face much higher costs of living when moving to Massachusetts, the board will have to sell them on the community as well as the job. This can be accomplished through informal social events, meetings with community leaders and similar activities.
4. The hiring body should extend the search and hiring process if there is not a significant pool of candidates from diverse backgrounds in the resume, interview or final pool. This may involve re-advertising, re-engaging networks and finding new networks.

⁹ Criteria should not be impossible to meet or create too many barriers for traditionally marginalized groups. For example, academic background should not necessarily be a barrier. You may miss candidates with other qualities should the primary focus be on academics. Think life experience and potential, not just qualifications.

G. Resume Review: The hiring body should review candidate's resumes based on the hiring criteria and decide which candidates to interview.¹⁰

H. Interviews and Selection

1. The hiring body should develop a rating system for candidate interviews based on the board established hiring criteria.
2. The hiring body is encouraged to develop an organizational package to distribute to candidates before the interview. The package could include a more extensive job description, hiring process timeline, brochure, newsletter, annual report, list of staff and board, and financial information.
3. If the entire hiring body does not conduct all interviews it should select a diverse group to conduct the interviews and develop interview questions that reveal information relevant to the hiring criteria.¹¹
4. During the entire process, the interview team or hiring body should watch for and test subtle biases and assumptions that may operate to exclude qualified candidates. Training and technical assistance from the Diversity Coalition or others may assist the hiring body to develop protocols to protect against bias.
5. The hiring body should check references. Based on the hiring criteria and information obtained, the hiring body should recommend to the board one or more finalists to be recommended for the job. The board may decide to conduct an interview with the finalists and to have them meet with the staff before making its final decision. After the board's decision, the board's designee should communicate the offer to the person selected.

I. Negotiations and Hiring

1. The board chair or the chair's designee may engage in salary and employment terms negotiations with the person offered the job. Areas to consider include the candidate's start date, compensation package, benefits, other special agreements or expectations such as training requirements, the orientation schedule and the date of the first performance review.
2. The board should discuss and must approve the key terms of the negotiation and the final hiring package.
3. The board and staff should send out an announcement of the hiring of the new executive director.

J. Orientation and Review Process

1. The board and staff should consider and decide on an orientation process for and a method of introducing the new executive director to the community.
2. The board chair or designee should meet with the new executive director regularly to establish communication, offer support, clarify expectations, and clarify roles of the director, board chair, other board members and staff. The board and the director should agree on a six-month work plan. *New Executive Director Tips* from the diversity coalition are attached

¹⁰ The hiring body may also find it helpful to consult the diversity coalition or others for tips on identifying candidates from diverse backgrounds or with experience in diversity issues (for example, sending candidates postcards to return to the hiring body that reveals diversity demographics and other information).

¹¹ Ask questions that reveal the values and management philosophy/practice of the individuals. Do they hold the organization's values? Do they live and lead diversity? Ask them open-ended questions and ones that require problem solving with posed scenarios.

3. The board should hold a six-month initial performance review and a one-year formal evaluation. The board should receive staff, client and outside stakeholders (e.g. funders) input into the review process.

IV. Special Issues

In cases of program mergers, the newly authorized governing board or body of the merged program should consider the following.

1. The board of the new program should decide whether to institute an open national search process for the executive director, and, if so whether to include the executive directors of the merging programs in the hiring pool, or whether to hire one executive director from the merging programs for the position. Since mergers and hiring of executive directors are sensitive and controversial, we advise the board to discuss very carefully which process to use. If a search is conducted, the hiring body may want to follow hiring protocols closely.
2. Organizational development consultants recommend hiring one executive director, particularly at legal service programs that have a distinct hierarchy. Other community-based organizations with a flat structure have hired co-directors successfully although some have faced considerable challenges including cost of dual compensation, reporting and accountability issues, staff confusion, and communication problems. Before an MLAC funded program decides to hire co-executive directors, MLAC requires that the board consult with MLAC staff regarding the reasons for the decision including the alternatives that were considered. If the program hires two executive directors to serve as co-directors, the board should take care that there is a clear delineation of duties, a strong relationship between the executive directors, and close board oversight of the shared relationship.

**For more information about these recommendations, please contact:
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Executive Director Position Outreach Checklist

The following checklist provides places and suggestions for posting legal services program director job postings.

Internal Postings

- ❑ Legal Services Web Sites
- ❑ Diversity Coalition Web Site, www.diversitycoalition.org
- ❑ Legal Services Program Bulletin Boards
- ❑ Internal and System Mailings

External Postings

- ❑ Massachusetts Lawyers Weekly, www.masslaw.com
- ❑ National Legal Aid and Defenders Association, www.nlada.org
- ❑ Management Information Exchange, www.m-i-e.org/Jobs

Diversity Recommendations

- ❑ Contact the Diversity Coalition to inform them of openings, to distribute job description at diversity coalition events, and to obtain a supplemental diversity listing for positions
- ❑ Post at Diversity Coalition Web Site, www.diversitycoalition.org
- ❑ Post at Minority Bar and Related Associations:
 - Asian-American Lawyers Association of Massachusetts, www.aalam.org
 - Boston Lawyers Group, www.bostonlawyersgroup.org
 - Massachusetts Association of Hispanic Attorneys, <http://www.mahaweb.org>
 - Massachusetts Black Lawyers Association, www.mblaonline.org
 - Massachusetts Black Women Attorneys, no web site as of 04/05
 - Women's Bar Association, <http://www.womensbar.org>
- ❑ Post at General Diversity Hiring Web Sites:
 - www.diversityinc.com
 - www.hirediversity.com
 - www.diversitylink.com
 - www.diversitybusiness.com
- ❑ Ethnic print media and radio (in various languages), <http://news.ncmonline.com/news>
- ❑ Your local and statewide community-based organizations, legal and advocacy groups, human service agencies, and/or cultural and ethnic groups
- ❑ Attend diversity job fairs that are likely to attract legal and management candidates

New Executive Director Tips

- Learn about every aspect of your new organization. Listen and read, rather than talk.
- Seek training in areas you are weak in such as management, human resources, fundraising, planning and diversity.
- Do not make major changes too quickly in your organization. Spend time evaluating the state of the organization before acting.
- Gain a few key successes in the first three to twelve months.
- Build strong relationships with your staff, board, consultants, funders, and community partners. Build gentle authority, trust, stability, and leverage your relationships.
- Build a competent, supportive, and highly qualified management team and invest in training and development of your staff.
- Form a respectful working relationship with the outgoing executive director and/or founder.
- Spend time planning, managing and strategizing. Delegate implementation as much as possible to staff, consultants and volunteers.
- Foster input and collaboration from key stakeholders before making major decisions.
- Communicate the organizational vision, values and expectations to staff and board, while at the same time soliciting their input on the same.
- Set up a support system of friends, family and other executive directors and ask for support even when you think you don't need it.
- Partner with an experienced executive director who can be your mentor and consider working with a professional and/or career coach to measure progress.
- Network and join professional associations.
- Do not try to do too much. Learn to recognize and avoid burnout and take regular vacations.
- Balance time inside and outside of the office.
- Think succession and leadership development always.