

## Massachusetts Legal Assistance Corporation

Resolution request from the MLAC staff for approval of requirement that all MLAC Grantees have emergency and anticipated transition (non-emergency) succession plans for Executive Directors.

### **Resolution Approved by the MLAC Board of Directors on 17 September 2015.**

*Whereas*, the *MLAC 2012-2015 Strategic Plan* states that over the last few years, the Massachusetts civil legal aid system has seen considerable turnover;

*Whereas*, the literature clearly indicates such transitions can destabilize programs and result in serious organizational problems;

*Whereas*, leadership succession planning has become widely viewed as a best practice, which allows for as smooth a transition as possible;

*Whereas*, a careful succession planning process provides an opportunity for an organization to assess its strengths and weaknesses and to plan its future course;

*Whereas* MLAC organizations should have two such plans in place: one for an emergency situation such as death or injury; and the other to guide the process when there is advance notice of the executive's leaving ("anticipated transition");

*Whereas*, in 2005, MLAC commissioned Kelly Bates, Bates Consulting, to work with a group of program directors and MLAC staff to develop *Executive Director Transition Recommendations* which remains a useful resource and was used in a 2013 MLAC succession planning process, which created the *MLAC Executive Director Transition Plan* which provides for input from various stakeholders regarding expected qualifications and prior experience for the candidates to be next executive;

*Whereas*, the *2012-2015 Strategic Plan* has as a goal, supporting proactive and orderly executive transitions throughout the civil legal aid system; and *whereas*, to achieve that goal, MLAC intended at a particular point in time to require all funded programs to have an emergency program and an anticipated transition (non-emergency) succession plans for Executive Directors;

*Whereas*, starting with the application of FY17, MLAC will require all funded programs to have both emergency *and* anticipated transition (non-emergency) succession plans for Executive Directors; and *whereas*, while the specifics of each succession plan may differ according to unique local needs, the MLAC executive director succession plans as well as commonly accepted best practices may be used to inform development of local plans; and *whereas* MLAC will ensure the provision of technical assistance as needed to create the succession plans.

*Whereas*, the MLAC Staff recommends that the Board approve a resolution that there be a requirement that all MLAC grantees have both emergency *and* anticipated transition

(non-emergency succession plans) for Executive Directors by April, 2016, and include these plans in its FY17 MLAC grant application.

*Whereas*, the MLAC Board of Directors hereby resolves as follows:

***RESOLVED*** that the MLAC Board of Directors consider the proposed requirement for approval.

**Resolution Approved by the MLAC Board of Directors on 17 September 2015.**

## **MLAC Strategic Plan**

Approved: March 29, 2012

### **Staff leadership transitions & development**

#### *Context*

Over the last few years, the Massachusetts civil legal aid system has seen considerable turnover. The ATJC noted in the Second Interim Report that “[o]f the thirteen people who were local program Project Directors in 2005, only three are still Project Directors. The new group is younger, includes more women and is more diverse.” It is vital to continue to support and further develop the new generation of leaders.

There are still key transitions to come, however, including MLAC’s Executive Director and senior staff in MLAC and the programs. The literature clearly indicates such transitions can be rocky and result in serious organizational problems. This effect is further complicated when the departing leader is either a founder or long-tenured executive. Leadership succession planning has become widely viewed as a best practice, which allows for as smooth a transition as possible. Organizations should have two such plans in place: one for an emergency situation and one to guide the process when there is advance notice of the executive’s leaving (“anticipated transition”). A careful succession planning process provides an opportunity for an organization to assess its strengths and weaknesses and to plan its future course. The Executive Director Transition Recommendations (2005) commissioned by MLAC and developed by Kelly Bates, Bates Consulting, and a working group of MLAC staff and program directors, remains a useful resource. The succession planning process, based on best practices, will provide for input from various stakeholders regarding expected qualifications and prior experience for the candidates to be next executive. Succession planning allows for greater attention to a number of important factors, including leadership and management experience and diversity. The commitment to diversity is vitally important now, as pointed out by concerns raised by attorneys of color in 2010 and the Retention Task Force in 2011, because attorneys of color have been disproportionately affected by layoffs.

Along with having a succession plan in place, it is important to ensure that staff is ready to take on increased leadership responsibility as needed. Meaningful staff professional development helps ensure a pool of qualified candidates from within play critical roles in a transition

Encouraged and informed by the Leadership Transition Task Force, which convened as part of the strategic planning process, a board, staff, and program director task force is creating an anticipated transition succession plan for MLAC’s Executive Director (an emergency plan is already in place). This task force’s short term responsibility was to develop a succession plan, for the approval of the full Board.

## ***Goals & Strategies***

*Goal 7:* Support proactive and orderly executive transitions throughout the civil legal aid system.

1. Starting in FY 14, MLAC should require all funded programs to have emergency and anticipated transition (non-emergency) succession plans for Executive Directors. While the specifics of each succession plan may differ according to unique local needs, the MLAC executive director succession plan as well as commonly accepted best practices may be used to inform development of local plans.
2. MLAC will ensure the provision of technical assistance as needed to create the succession plans.

**Massachusetts Legal Assistance Corporation  
Emergency Executive Director Succession Plan  
Adopted by the Board of Directors: 24 June 2010**

**1. Rationale**

In the event the Executive Director is unexpectedly incapacitated or absent and therefore unable to perform the duties of the position, the MLAC Board of Directors needs a plan for how to proceed.

Definitions:

- An unplanned absence is one that arises unexpectedly.
- A temporary absence is one in which it is expected that the Executive Director will return to his/her position once the events causing the absence are resolved.
- A short-term absence is three months or less.
- A planned absence is known in advance, such as a planned medical leave or sabbatical.
- A permanent absence is one in which it is determined that the Executive Director will not be able to return to the position within three months or such longer or shorter period as the Board determines.

Consistency with Applicable Law:

The Board will interpret and administer this plan in a manner consistent with the provisions of the Family and Medical Leave Act, the Americans with Disabilities Act and the Massachusetts Fair Employment Practices Act and other such laws and regulations as may be adopted from time to time.

**2. Immediate steps in the event of an unplanned absence of the Executive Director**

- The Board of Directors will implement this emergency succession plan in the event of an unplanned absence of the Executive Director.
- In the event of an unplanned absence of the Executive Director, the Deputy Director<sup>1</sup> shall immediately inform the Chair of the Board (Chair) of the absence.
- The Chair shall convene a meeting of the Board of Directors to affirm the procedures prescribed in this plan or to make such modifications to the plan, based on then existing circumstances, as the Board of Directors sees fit.
- The Deputy Director is authorized to inform all staff, program directors and leaders of the Equal Justice Coalition.
- The Deputy Director, after consulting with the Chair, shall inform external entities listed in the Emergency Contact List (Attachment #1)

**3. Succession plan in the event of an unplanned absence**

Acting Executive Director

- In the event of an unplanned, or a planned temporary, absence of the Executive Director, the Board of Directors shall appoint an Acting Executive Director to ensure that the essential functions of the organization continue with minimal disruption.
- The Acting Executive Director will report to the Board.

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<sup>1</sup> In the absence of the Deputy Director, the first staff person on the following list who is present in the office shall assume the role of the Deputy Director until the Deputy Director returns or the Executive Committee or the full Board designates another person as Acting Executive Director. Director of the Equal Justice Coalition, Fiscal Director, Program Director, Communications Director.

### Who will serve as Acting Executive Director

- The Deputy Director will immediately assume the role of Acting Executive Director and continue in the role until the Board of Directors meets.
- The Board of Directors will appoint either the Deputy Director or such other person as the Board chooses to be the Acting Executive Director.
- If the Board of Directors chooses not to appoint the Deputy Director as Acting Executive Director or the Deputy Director is unable to serve for some reason, the Board of Directors may consider alternate choices, such as:
  - Appoint an Acting Executive Director from among the current senior staff members
  - Appoint a consultant, or other outsider, who specializes in interim management
  - Identify and implement other options that might be available at the time
- Only the Board of Directors has the authority to appoint an Acting Executive Director.

### Oversight by Executive Committee

- During the tenure of an Acting Executive Director, the Executive Committee (EC) of the Board of Directors shall monitor the performance of and provide support to the Acting Executive Director.
- The process for evaluating performance of and the nature of the support to be provided will be determined jointly by the Acting Executive Director and the EC.
- The EC shall confer at least weekly with the Acting Executive Director during the first month of the interim period and may meet less frequently, if appropriate, during subsequent months.
- One member of the EC (who may be the Chair) shall be designated as the main board contact for the Acting Executive Director.
- In consultation with the Acting Executive Director, the EC shall establish organizational priorities for the interim period. It is important to keep in mind that it is unlikely that everything that would typically be accomplished under the Executive Director can be accomplished during an interim period.
- Unless specifically restricted by a majority vote of the Board or the EC, the Acting Executive Director shall have and exercise the same decision-making authority and ability to take independent action as the Executive Director.
- The EC shall consider whether there should be any restrictions on signing authority during the interim period, for example: checks, contracts, grants, etc.
- In consultation with the Acting Executive Director, the EC shall determine whether any management position or function left vacant, as a result of the absence of the Executive Director needs to be filled.

### Communication Plan

As soon as possible after the Acting Executive Director has begun covering an unplanned absence, the Acting Executive Director and the EC shall determine who will communicate the temporary leadership structure to the key external supporters and partners listed in the Emergency Contact List.

The Executive Committee, in consultation with the Acting Executive Director and the Communications Director, shall determine who the organization's single spokesperson will be should something arise that would require a spokesperson to respond. Typically, that person will be the Chair of the Board of Directors or the Acting Executive Director.

### Short-term Absence

If the Executive Director's absence is expected to be short-term, the Acting Executive Director shall be charged with all interim management.

### Permanent Absence

If the Board of Directors determines that the Executive Director's absence will be permanent, the Chair will call a meeting of the Board of Directors as soon as feasible to appoint a Transition Team and begin the process to plan and carry out an executive transition.

### Compensation

The Board will agree on a compensation package for the Acting Executive Director.

#### **4. Priority functions of the Acting Executive Director**

The full job description for the Executive Director is attached (attachment #2). This job description is reviewed and updated annually in conjunction with the process of evaluating the Executive Director's performance.

In the event of an unplanned absence of the Executive Director, the following responsibilities will be priorities for the Acting Executive Director:

- Day-to-day operations of all MLAC programs
- Funder and community relations
- Hiring and termination decisions
- Financial management
- Communicating regularly with the Executive Committee
- Continue current major projects

**Review of this succession plan** – The Executive Director will review this succession plan at least annually with the senior management of MLAC. A discussion of the plan including the results of the management review will also take place between the Chair (and other designated board members) and the Executive Director as part of the annual evaluation of the performance of the Executive Director. The Board of Directors will be apprised of the results of these reviews, including any recommended changes, during their annual review of the evaluation of the Executive Director. Based on that review, the Board of Directors will each year at its September meeting adopt any updates it determines are needed to this succession plan.

*Approved by the Board of Directors on 24 June 2010*

# Massachusetts Legal Assistance Corporation

## Executive Director

### Transition Plan

Developed by:

The MLAC ED Transition Task Force

June 2012

Adopted by the MLAC Board of Directors, July 2012

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## **MLAC EXECUTIVE DIRECTOR PLANNED TRANSITION PROCESS**

### **I. Introduction and Context**

The Massachusetts Legal Assistance Corporation (MLAC) has prepared an Executive Director Transition plan, in preparation for the expected departure of the current Executive Director, Lonnie Powers, in 2015. This plan is based on the Model Executive Director Transition Guidelines prepared by Kelly Bates in 2005 and adopted by the MLAC Board as a model for MLAC funded programs to follow in that same year. The plan also incorporates the most successful strategies used by non-profits to manage executive director transitions.

The MLAC Board understands that selecting the successor Executive Director is one of its most important duties. Constructing a thoughtful, comprehensive transition process is essential to ensuring that the Board selects the best possible new Executive Director. The difficulty of the task is amplified given that Lonnie Powers has been MLAC's only director and will have served for 32 years in 2015. That long tenure makes careful planning for and execution of the process including possibly hiring an interim director critical for the success of MLAC.

In keeping with MLAC's long standing commitment to fostering diversity, the MLAC Board will ensure that the transition process develops a diverse pool of candidates. The search may be assisted by an experienced outside consultant with a proven record of assembling a highly qualified, diverse pool of candidates.

### **I. General Departure and Preparation Recommendations**

The MLAC board will continue to discuss the ED's plans regarding tenure and executive director transition as a regular part of his annual evaluation. A timeline for activities relating to the ED transition that will be undertaken prior to the formal announcement of the ED's departure is appended to this plan and will be used as a guide by the ED, the Board and the Governance Committee.

#### **A. The Departing Executive Director will:**

Provide the staff and Board with at least the six month notice of his planned departure set forth in his employment contract and will endeavor to provide more notice if at all possible to process his resignation, and to implement the transition plan.

#### **B. The MLAC board will:**

1. Develop a departure communication strategy with the assistance of the ED and the Director of Communications; first notifying the staff, and then the broader community when he will be retiring.
2. Remain active and engaged in MLAC to ensure that the departing executive director and, if there is one, the interim director, and staff are in regular communication with the board, about the transition process as it unfolds.
3. Through the Governance Committee, review this Executive Director Transition Plan annually to determine what if any changes or updates are appropriate and to review progress on the pre-departure timeline. The Committee and the ED will report to the Board annually at the September meeting about the results of its review together with any recommended changes.

C. The MLAC board, ED and staff working together will:

1. Notify all interested stakeholders of the planned departure of the executive director and of the implementation of this transition plan.
2. Minimize the impacts of the departure on staff morale and retention by fostering communication, teambuilding, and attending to internal and external stakeholder relationships.
3. Ensure that enough funds are available for the transition process and at the time the new executive director starts to avoid financial crisis management.
4. Handle any pending major legal issues affecting the internal organization.
5. Ensure that the bookkeeping, records, information systems and physical property are secure and maintained during the transition.

## **II. MLAC Transition Committee to Oversee Process**

The Chair of the MLAC Board will appoint members to a “Transition Committee” to (1) ensure a smooth transition in leadership from the outgoing executive director to the new executive director, and, (2) develop and implement a plan for the hiring and orientation of the new director

A. The MLAC transition committee will:

1. Consist of the Chair or the Chair’s designee who shall be the Chair of the Committee, four other board members who shall reflect the diversity of the board in terms of length of service on the board, geographic location in the Commonwealth, type of practice for attorneys, race and ethnicity and will include at least one client eligible member of the Board. The Chair of the Board may also name no more than three current members of the MLAC staff to serve on the Committee.
2. Be responsible for the overall transition process including:
  - (a) developing and implementing a plan for the hiring and orientation of the new Executive Director, including consideration of hiring an interim director and;
  - (b) making a recommendation to the Board of Directors regarding whether or not to hire an interim director
  - (c) unless the board decides that one is not needed, guiding the organization through a process to determine immediate organizational priorities and needs,
  - (d) developing and proposing to the board a complete statement of the the skills and attributes needed in a new Executive Director prior to advertising for applicants; and,
  - (e) ensuring a smooth leadership transition from the outgoing ED to any interim director and to the new ED.
3. Report to and make recommendations as to the process to the full board with input and involvement from the staff and after consultation with all interested stakeholders including the Access to Justice Commission, the bar associations involved in the Equal Justice Coalition, the Equal Justice Coalition, the boards, leadership and staffs of the MLAC funded legal aid programs, a representative cross section of client eligible persons and such other persons and organizations as the committee deems appropriate.

4. Develop a plan, timetable, and budget for its work for review and approval by the MLAC Board.
5. Recruit and hire, with the approval of the full Board of Directors, to perform such duties as are specified by the Transition Committee, an outside consultant/search firm experienced in facilitating executive director transition processes and in recruiting a diverse pool of highly qualified candidates. Although the presumption is that MLAC will engage an outside consultant/search firm, the committee may recommend to the Board of Directors that no such consultant be hired in which case the committee will propose an alternative method of proceeding. The decision regarding hiring one or more consultants will be made by the Board. If consultants are to be hired, the committee will solicit proposals from a diverse group of qualified consultants.

### III. Search and Hiring Process

The search and hiring process should be conducted according to the following process.

#### A. Interim Director

1. Due to the current ED's long tenure as MLAC's only executive director, it may be necessary to hire an interim executive director. If the Board determines that an interim director is needed, the interim executive director may be an outside consultant, or a current staff member such as a deputy director, associate director, other management staff. The interim director could be a current or former member of the MLAC board but any current member would have to resign from the board upon assuming the role as interim director and could not be otherwise involved in the hiring process. The interim director may not be a candidate for the permanent position.

2. The interim director, if hired, and the board chair will 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 consultant/ search firm hired to assist in the search for any interim and the permanent executive director must be able to offer assistance with recruitment, initial screening, and advice about effective resume review, interview and hiring techniques. The consultant/search firm should have extensive experience in developing a pool of highly qualified and diverse candidates. The consultant/search firm must also have the organizational development skills to assist with activities that need to happen before and after the search process. If required, the Transition Committee may recommend to the Board the hiring of another qualified consultant to assist with the organizational review process.
2. Board members and members of the Transition Committee will receive diversity training on effective diversity hiring practices.
3. The MLAC Board will be fully informed by the Transition Committee about and approve the major steps taken as the process moves forward. The Transition Committee's responsibilities will include developing a plan and timetable for the overall hiring process, drafting a job description to be approved by the board, supporting recruitment, ensuring that the applicant pool is sufficiently diverse, reviewing resumes, selecting candidates to interview and conducting initial interviews.

4. The Transition Committee will recommend a candidate for interim director to the Board, if required, and at least two and not more than three candidates for permanent Executive Director to the full Board of Directors. The full MLAC staff will be given an opportunity to meet with any final candidates and to report to the Board of Directors on their observations of the candidates before the Board makes a final decision on hiring. The full Board will interview the recommended candidates and make the final decision on hiring.

C. General Practices:

The MLAC Board will establish a salary range for the new executive director after reviewing the salaries paid for comparable positions. The Board will authorize the Chair or another member or members to negotiate vacation and sick leave, benefits, incentives (e. g., sabbaticals and relocation costs, bonuses, etc.) with the goal of hiring the best qualified candidate. The full Board of Directors must approve the final agreement with the new Executive Director.

D. Hiring Criteria

1. Based on the organizational review process results and recommendations from the Transition Committee, the MLAC Board will clearly specify the vision and values the new executive director should possess in order to implement MLAC's strategic objectives.
2. The Transition Committee will recommend to the Board for its review and approval 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.

E. Job Description

1. The Transition Committee will develop a job description to be approved by the Board that sets out key information about the program and outlines the vision and values of MLAC; roles and responsibilities of the executive director; hiring criteria; and reporting information. The Committee and the Board will decide whether to include information on the salary range.
2. The job description will also include language that explicitly encourages specific qualified applicants to apply, for example, "female, people of color, etc., candidates are strongly encouraged to apply."

F. Recruitment

1. The Transition Committee, together with the consultant/search firm, will circulate the job description within MLAC, the legal services community and to external locations, media outlets and website groups within Massachusetts and nationally. 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 Transition Committee will ask the board and staff and other interested stakeholders 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 be necessary for the MLAC board not only to identify candidates with excellent qualifications, but also to “sell” them on the program.
4. The Transition Committee may extend the search and hiring process if there is not a significant pool of qualified candidates from diverse backgrounds among the finalists. This may involve re-advertising, re-engaging networks and finding new networks.

G. Resume Review:

The Transition Committee will review candidates’ resumes based on the hiring criteria and decide which candidates should be interviewed.<sup>2</sup>

H. Interviews and Selection

1. The Transition Committee will develop a rating system for candidate interviews based on the MLAC board established hiring criteria.
2. The Transition Committee will work with the director of communications to develop an organizational package to distribute to candidates before the interview. The package would include a more extensive job description, hiring process timeline, brochure, newsletter, annual report, list of MLAC staff and board, and financial information.
3. If the entire Transition Committee does not conduct all interviews, it will select a diverse group to conduct the interviews and develop interview questions that reveal information relevant to the hiring criteria.<sup>3</sup>
4. During the entire process, the Transition Committee will watch for and test subtle biases and assumptions that may operate to exclude qualified candidates. Training and technical assistance from a Diversity Consultant will assist the transition committee to develop protocols to protect against bias.
5. The Transition Committee will conduct due diligence on the finalists and will check references. Based on the hiring criteria and information obtained, the committee will recommend to the board two or more finalists to be recommended for the job. The board will conduct an interview with the finalists and meet with, and solicit MLAC Staff feedback, before making a final decision. After the board’s decision, the board’s designee(s) should communicate the offer to the person selected.

I. Negotiations and Hiring

1. The board chair or the chair’s designee(s) will engage in salary and employment terms negotiations with the person offered the job. Areas considered would 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.

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<sup>2</sup> The transition committee will consult the diversity coalition and 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).

<sup>3</sup> The committee will ask questions that reveal the values and management philosophy/practice of the individuals.

2. The MLAC board should discuss and must approve the key terms of the negotiation and the final hiring package.
3. The board and staff, with the assistance of the Director of Communications should send out an announcement of the hiring of the new executive director.

J. Orientation and Review Process

1. The MLAC board and staff will decide on an orientation process for and a method of introducing the new executive director to the community.
2. The MLAC board chair or designee(s) will 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 executive director should design and agree on a six-month work plan. The MLAC board will conduct a six-month initial performance review and a one-year formal evaluation. The board will receive staff, client and outside stakeholders input into the review process.