

ILLINOIS LEGAL AID DIVERSITY & INCLUSION WORKING GROUP

REPORT to the LAWYERS TRUST FUND OF ILLINOIS

March 31, 2021

The legal aid system in Illinois is responsible for serving a diverse population, and the organizations that provide legal aid services recognize the benefits of diversity and inclusion within their respective boards of directors and staffs. These benefits include better and more representative decision-making; the ability to engage with diverse communities and potential clients more effectively; and increased attention to issues of fairness and equity in the provision of services.

While many legal aid organizations have efforts in place to promote diversity and inclusion within their organizations, until recently there has been no active forum for discussion of these issues among legal aid groups. In addition, no aggregate data has been available about diversity in the Illinois legal aid system. As a key initiative of its strategic plan for 2019 – 2021, the Lawyers Trust Fund of Illinois set out to address these gaps.

The Lawyers Trust Fund convened the **Illinois Legal Aid Diversity & Inclusion Working Group** in June 2019. The 17-member group consists mostly of legal aid staff members who play a wide variety of roles (front-line staff attorneys, program managers, administrators, and executive directors), as well as attorneys in private practice and academia. (A list of Working Group members is included at the end of this report.)

The following report and recommendations to the Lawyers Trust Fund’s board of directors includes actions and resources that are needed to advance this mission. The report and recommendations were drafted by the co-chairs and reflect the broadly supported views of Working Group members, based on lived experience, shared observations, discussions over the past 18 months, and related research.

On a parallel track, the Working Group has played a key role in designing and promoting the Illinois Legal Aid Diversity – the first-ever effort to collect information on the demographic diversity of legal aid board and staff members in Illinois. The 2021 survey results will serve as a benchmark against which data collected in future years can be compared. (The diversity survey’s findings will be sent to the Lawyers Trust Fund in a separate report.)

OVERVIEW OF THE MISSION, GOALS, AND PROCESS

As drafted by the co-chairs and affirmed by its membership, the Working Group’s **mission** is “*to facilitate the adoption and implementation of principle-based policies and practices that increase staff diversity, cultivate diverse leaders, and promote inclusive cultures in legal aid organizations.*”

After considering the range of challenges related to diversity and inclusion in Illinois legal aid organizations, the Working Group elected to focus its efforts on four main **goals**. These goals are to help Illinois legal aid organizations:

- 1. De-bias hiring processes;**
- 2. Retain a diverse staff;**
- 3. Create cultures of inclusion;**
- 4. Build a diverse pool of future leaders.**

The ultimate aim of the Working Group was to make concrete recommendations for improvement that can be implemented by legal aid groups with encouragement, financial support and/or technical assistance from the Lawyers Trust Fund of Illinois.

Procedurally, the Working Group tackled the four goals separately. For each goal, the Working Group co-chairs solicited resources, including articles, reports, podcasts, and videos relevant to the goal. The co-chairs circulated the collected materials, which formed the basis for discussion at a series of meetings held between June 2019 and November 2020.

At each meeting, the co-chairs led a discussion related to one of the four goals, based on the resource materials that had been collected and circulated. Working Group members were encouraged to share reactions and offer reflections based on their experiences. In addition to identifying successes and concrete ideas for improvement, the discussions affirmed the additional efforts are needed to promote diversity and inclusion in the legal aid system.

A major theme of the Working Group's discussions was feasibility within the legal aid context. Some solutions that might have broad applicability in other settings (e.g., major law firms, corporations, educational institutions) could be less effective in the small- to medium-sized not-for-profit organizations that make up the legal aid system in Illinois. These organizations tend to be under-resourced, over-stretched in terms of workloads, and have limited managerial "infrastructure" in critical areas such as training, supervision, and human resources.

In addition to the goal-focused meetings, the Working Group dedicated a full meeting to reviewing and offering input on the design of the diversity survey.

A Note on Urgency, Consensus, and Next Steps

Like almost every other sector or set of institutions in our society, the legal aid sector in Illinois has many challenges to overcome and much work to do around issues of diversity and inclusion. The staff of legal aid groups – especially upper management – are not demographically reflective of the populations served by their organizations. Working Group members related many incidents from their own experiences and from direct observation that underscore the urgency of the work to be done.

The recommendations included in this report reflect items and actions that were broadly supported within the Working Group. In the course of discussion, members expressed

additional concerns and stressed different possible approaches. This report is not intended to gloss over disagreements within the Working Group or to minimize the scope and nature of the problem. The report and recommendations are, instead, intended as a practical set of steps on which future efforts can be built.

It should also be noted that in its first iteration, the Working Group approached issues of diversity and inclusion through the lens of the “employment lifecycle” – recruitment, hiring, retention, and promotion. An alternative approach would be to look at the same issues based on the experiences of members of different groups based on factors such as race/ethnicity, gender identity, sexual orientation identity, disability status, or age. The framework adopted by the Working Group was not intended to minimize the nuances that would surface from such discussions. Additional discussion is needed using that framework in future iterations of the Working Group and other fora.

As noted above, the Working Group served in an advisory capacity to the Lawyers Trust Fund regarding the design and content of the inaugural Illinois Legal Aid Diversity Survey. Some members of the Working Group felt that the survey questions did not go far enough in terms of detail regarding certain diversity categories. The Working Group will continue to discuss these issues and make recommendations for changes in subsequent iterations of the survey.

Clearly, there is more to be done. The Working Group intends to continue to meet in its current form through the end of 2021, in order to support and oversee implementation of the recommendations included in this report. The hope is that some version of the Working Group will continue in 2022 and beyond as a representative forum for discussion, reflection, and action.

GOAL DISCUSSIONS AND RECOMMENDATIONS

Goal 1: De-Bias Hiring Processes

“An organization needs to reach outside of their known circles in order to change and improve their hiring processes.”

Staff diversity is to a great extent based on the nature of the hiring process, and the Working Group began its efforts by discussing this fundamental challenge. While there is broad consensus that diverse teams outperform non-diverse teams, the hiring processes of legal aid organizations are not always structured in ways that reflect a full understanding of or commitment to this belief.

The Working Group noted that bias can infect the hiring process at all stages of the selection process, in issues including developing a candidate pool; participation in recruitment events; the content and placement of job postings; the interview process; screening and evaluation methodology; selection criteria; and on-boarding for new employees.

The Working Group discussed that in legal aid and beyond, there is a tendency to rely on self-affirming beliefs about “organizational culture” and a sense of whether someone will “fit” with that culture based on the hiring manager’s intuition. This creates space for preconceptions and biases that can work against diverse candidates. The Working Group emphasized the importance of defining the needs for a particular role in objective terms, as well as creating more inclusive hiring structures to counter-balance the power dynamics where a non-diverse organizational leader has sole authority to make hiring decisions.

The Working Group also looked at the issue of de-biasing the hiring process from the perspective of diverse candidates seeking opportunities in legal aid. Prospective candidates need a better understanding of the rewards and challenges of legal aid work. This includes information on compensation, work-life balance, and, especially, opportunities for advancement, at Illinois legal aid organizations.

Recommendations Related to Goal 1

1. **Develop and share best practices for job postings.** Because the language in job postings can unwittingly signal a lack of interest in diversity and/or a non-inclusive environment, legal aid organizations should have access to clear and comprehensive guidance to help with this task.
2. **Create a recruitment distribution list.** Law schools, alumni networks, bar associations, non-profit affinity groups, for-profit companies, and other entities all host forums to publicize job opportunities. A curated list of forums through which job postings will reach a diverse audience should be compiled and updated as a resource for legal aid hiring managers.
3. **Build a pool of diverse candidates through affirmative outreach.** Legal aid organizations should consider working collaboratively to build a pool of interested candidates through affirmative outreach and events that target diverse networks and individuals. A related recommendation is that legal aid organizations should consider accepting applications on a year-round basis.
4. **Standardize the interview process.** Legal aid organizations should formalize their interview processes, including using a standard set of questions to vet candidates and pinpoint needed skills in a more objective way. While each organization will approach this slightly differently, the Working Group recommends considering the use of a competency-based behavioral interview rubric, as well as standard candidate assessment forms.
5. **Decentralize the hiring process.** Leaders within legal aid organizations should involve additional staff members – including diverse staff members – in the candidate screening and selection processes. This includes soliciting feedback from additional stakeholders

to help make a more objective assessment regarding the requirements of the position and the qualifications of prospective candidates.

6. **Provide information to prospective employees about legal aid opportunities.** Provide information and legal-aid-specific “career coaching” to help expand the pool of diverse candidates interested in exploring opportunities in legal aid. Topics could include transitioning from private or government work to public interest work; how to find or create advancement opportunities in legal aid; and information on topics such as salaries, benefits, and work-life balance.
7. **Provide ongoing training to legal aid hiring managers.** The Lawyers Trust Fund should sponsor and convene periodic training programs on best practices for de-biasing all stages of the hiring process, from recruitment to on-boarding.

Goal 2: Retain a Diverse Staff

“In order to retain diverse staff, diversity needs to be more than tokenism.”

Employee retention is a challenge for legal aid organizations, whose employees must deal with the realities of relatively low pay, limited opportunities for advancement, and challenging work, often on behalf of clients facing desperate circumstances.

For diverse staff members, these challenges are often compounded by unchecked assumptions within the organizational cultures that create invisible barriers to inclusion. If unexamined and unaddressed, these barriers can tip the scales toward departure from organizations that are perceived as unsupportive.

One theme discussed at length by the Working Group is “authenticity.” How can diverse staff members bring their authentic selves to their work, rather than having to speak, act, dress, or behave in certain ways to make themselves acceptable to the dominant workplace culture. This was deemed a laudable and important, if elusive, goal.

The Working Group devoted part of its discussion to the multi-faceted workplace issues faced by people with disabilities. These include everything from navigating around non-accessible work spaces to exclusion from work-related social events to the potential stigma involved in seeking a disability-related accommodation.

Corporations and private law firms have applied a range of measures to address diversity-related retention challenges, including anti-bias training, employee resource groups, and compensation incentives. The Working Group’s consensus was that such widely used measures have had limited success even in these heavily resourced environments. Consequently, legal aid programs need to develop creative solutions that address organizational culture and allow diverse employees to bring their whole selves to their work and motivate them to stay.

Recommendations Related to Goal 2

1. **Support dialogue within legal aid organizations.** Legal aid organizations should take steps to examine organizational culture, including opportunities for facilitated dialogue and coaching on issues such as being an ally and interrupting bias. Such efforts should be part of an ongoing organizational dialogue, not just one-time educational events.
2. **Create affinity groups for peer learning & support.** Diverse persons working within the legal aid system in Illinois should have opportunities to come together across organizational lines to learn from and support one another. These groups should be structured by the participants, with support from organizational leadership. These resource and affinity groups could sponsor periodic forums and educational programs for staff and board leaders of legal aid organizations, to raise awareness about issues of particular concern.
3. **Create additional opportunities for advancement.** Opportunities for advancement and professional growth can come from a wide variety of roles, based on an individual's interests and abilities. Rather than thinking solely in terms of "promotion" within what are relatively flat organizational structures, identify opportunities for talented individuals to learn and lead, *e.g.*, policy work; chairing an issue-specific task force or an internal staff committee; or representing the organization with community partners or other legal aid coalitions.
4. **De-bias staff evaluations.** Create resources and provide training to encourage best practices for combatting bias in the staff evaluation and feedback process.
5. **Share experiences.** Offer a facilitated "diversity simulation" to help legal aid staff and board members better understand the lived experience of diverse employees.
6. **Develop policies and best practices to support people with disabilities.** Develop best practices and model policies around accessibility and accommodations, as well as guidance on how to destigmatize conversations about disabilities.
7. **Study the effects of compensation on employee retention.** A critical question facing legal aid organizations is: Who can afford to stay? Current compensation levels create significant barriers for individuals with high levels of student debt and/or who do not have access to private wealth independent of their salaries. Because of historical factors, both of these factors disproportionately affect diverse individuals and people of color. The Lawyers Trust Fund should study the effects of current compensation levels on retention, with a special focus on retention of diverse individuals. If financially feasible, the Lawyers Trust Fund should consider investing in efforts to increase compensation levels and/or offer related benefits (*e.g.*, more generous leave policies, retention bonuses).

Goal 3: Create Cultures of Inclusion

“Realizing the difference between integration and inclusion was eye opening for me. It allowed me to reevaluate my career path and find an inclusive workplace where I feel like one of the team. This has had a positive impact on my productivity, drive, loyalty, and self-confidence.”

During the Working Group’s discussion on inclusion, one participant summed up the issues with the following analogy: “Diversity is being invited to the party. Inclusion is being asked to dance. Belonging is being able to dance your way. If everyone plans the party, the party ends up being much better.”

A powerful theme that emerged in the Working Group’s deliberations is the idea that organizational “cultures” can be created intentionally or unintentionally. In many cases, organizational cultures evolve based on the accretion of past habits, preferences, and patterns of interaction. To the extent that these cultures have been shaped primarily by the members of one dominant group, they can reflect bias and communicate exclusion, even if that is not the intention.

The first step toward creating a “culture of inclusion” is recognizing the need to be intentional about creating an organizational culture – one informed by all organizational stakeholders and based on trust.

The Working Group identified five components that can help foster a “culture of inclusiveness:”

- **Leadership:** Organizations often take on the personalities of the people in charge, and organizational leaders must set the tone, encouraging open conversations about inclusive cultures.
- **Intentionality:** As noted above, healthy, inclusive organizational cultures must be cultivated and nurtured.
- **Thoughtfulness:** Creating an inclusive culture requires careful consideration of questions and issues such as: Who is in the room when decisions are made? What perspectives are missing? What underlying assumptions need to be re-examined?
- **Communication:** The idea that all employees are valued and all perspectives are important is something that needs to be reinforced through deliberate communication efforts.
- **Feedback:** To create an inclusive culture, communication cannot just be one way. There must be openness to and channels for all employees in an organization to share their views.

Recommendations Related to Goal 3

1. **Provide support for leadership.** Because leadership sets the tone, it is important for legal aid organizations to invest in management training and coaching for the chief executive and for members of leadership teams. Very few organizational leaders in the legal aid community have extensive training or experience in leading conversations around diversity and inclusion, and many require support to help their organizations achieve their goals in these areas.
2. **Be intentional about who should supervise staff.** Being a good advocate does not necessarily make someone a good supervisor or manager. Recognize that the day-to-day experience of an employee, and their feelings of belonging or not belonging, is largely determined by their immediate supervisor. Provide training and other support opportunities for supervisors, especially for new supervisors.
3. **Create a framework and expectations around internal communication.** Legal aid organizations need to create safe spaces for discussions of issues related to diversity, equity, and inclusion. Leaders should “overcommunicate” and make sure that communication is standardized throughout the organization so that different individuals are receiving different messages. Organizations should allow time for consistent but unstructured “check-in” conversations with managers and supervisors. When communication problems arise, consider bringing in outside facilitators to create space for focused and productive dialogue.
4. **Measure progress towards the goal of inclusiveness.** Legal aid organizations should collect data, including from employee engagement surveys, to assess the inclusiveness of the work environment. Exit interviews can be another useful source of data, in that many soon-to-be-former employees will be willing to speak candidly about ways for the organization to improve.
5. **Be thoughtful in planning events and activities.** Legal aid organizations should ensure that staff members of all races, gender identities, and abilities are able to participate in organizational activities. Organizations should be thoughtful when planning all activities, including on-site and off-site work-related events (*e.g.*, trainings, fundraisers, staff retreats, social events).
6. **Be intentional.** In order to foster inclusiveness, organizational leaders must encourage participation, solicit feedback, and welcome perspectives from people, even if they are not personally affected by or directly involved in a particular decision or issue. It may be necessary to ask for such feedback and participation repeatedly, as comfort and trust are established.

Goal 4: Build a Diverse Pool of Future Leaders

“Building a diverse pool of future leaders is especially important in legal aid because having a diverse staff that better reflects what our society looks like also better reflects the client population we serve. This not only helps us better assist our clients with legal representation, but also having different perspectives within legal aid agencies leads to more innovation and better problem solving.”

The current executive leadership of the organizations that make up the Illinois legal aid system is strikingly non-diverse. As noted above, leadership is critically important for setting the tone around issues of diversity and inclusion. If real change is to occur, it is critical that the executive leadership and management teams of legal aid organizations evolve to reflect the diversity of the communities served by those organizations.

The Working Group identified many factors that have contributed and continue to contribute to this lack of diversity in leadership.

- There is a common (though not universally held) belief by board and staff members that leaders should be legal aid lawyers who started out “in the trenches” and worked their way up to the top job. While this career path offers many advantages in terms of knowledge and experience, given the limited diversity within legal aid in general, it also limits the potential pool of diverse candidates.
- Given the general lack of diversity within in the legal profession, the prevalent view that a legal aid organization must be run by a lawyer also limits the pool of potential diverse candidates.
- Due to the lack of diversity within legal aid in general, as well as the relatively flat structures of most legal aid organizations, there is a very small pool of diverse candidates with management experience in legal aid to draw from.
- Turnover in senior leadership positions in legal aid tends to be limited, meaning that even if more diverse candidates are hired, change will be evolutionary.
- Boards of legal aid organizations may have preconceptions regarding what type of individual makes an appropriate leader – in terms of educational background, social status, professional networks, and access to fundraising opportunities. In many cases, these preconceptions tend to disfavor diverse candidates for leadership positions.

The Working Group also discussed the fact that many organizations have not undertaken formal succession planning and/or mentorship activities. Where they have engaged in these activities, they may not be inclusive of staff from under-represented groups. Mentorship and other career-development opportunities should be available not only based on diversity criteria

such as race, gender, sexual orientation identity, and/or disability status, but also on job roles (e.g., paralegals and other roles that do not require a law degree.)

Recommendations Related to Goal 4

1. **Look for leaders beyond legal aid (and possibly the legal profession).** The job of leading a legal aid organization is multi-dimensional, and many of the necessary skills and competencies are not exclusive to members of the legal profession. Legal aid boards should craft job descriptions for leadership positions based on actual needs, rather than just requiring a law degree as a default screening mechanism.
2. **Cultivate emerging leaders.** Legal aid organizations should develop thoughtful and inclusive succession plans; identify and cultivate emerging leaders; and provide meaningful mentorship opportunities for newer and mid-career staff members. There are lessons to be learned here from other industries, including the healthcare industry.
3. **Increase board diversity and training.** Boards of directors hire the chief executives at legal aid organizations, and a more diverse board may be more successful at attracting and evaluating diverse candidates. In addition, the boards of many legal aid organizations could benefit from training and professional assistance in implementing a search and hiring process for a new staff leader.
4. **Create leadership opportunities through management teams.** Legal aid organizations should think carefully about what constitutes “leadership” in the context of their work. Titles, job descriptions, and inclusion in decision-making should reflect the leadership that is already being provided by a broader range of individuals within the organization.
5. **Promote lifelong commitments to public service.** Be conscious about building a culture of commitment to public interest work among new hires, including interns, fellows, and entry-level staff members. While many may leave to pursue careers in government or the private sector, some could be recruited to return in leadership roles in legal aid agencies.

IMPLEMENTATION

The Working Group’s recommendations related to the four goals fall into two broad categories for implementation purposes: recommendations directed toward individual legal aid programs and recommendations that can best be put into practice through collaborative and/or sector-wide actions. The recommendations are grouped accordingly here.

Recommendations for Individual Legal Aid Organizations to Consider

Many of the recommendations in this report are directed at legal aid organizations, urging them to reflect upon issues that may have overlooked or to think about new approaches to

tackling diversity-and-inclusion related challenges. These are offered less as specific prescriptions and more as prompts for self-examination and internal discussion:

- 1.4 Standardize the interview process.
- 1.5 Decentralize the hiring process.
- 2.1 Support dialogue within legal aid organizations.
- 2.3 Create additional opportunities for advancement
- 2.4 De-bias staff evaluations.
- 3.1 Provide support for leadership.
- 3.2 Be intentional about who should supervise staff.
- 3.3 Create a framework and expectations around internal communication.
- 3.4 Measure progress toward the goal of inclusiveness.
- 3.5 Be thoughtful in planning events and activities.
- 3.6 Be intentional
- 4.1 Increase board diversity & training
- 4.2 Cultivate emerging leaders
- 4.3 Increase board diversity.
- 4.4 Create leadership opportunities through management teams.

How LTF Can Help: To be implemented successfully at the organizational level, many of these recommendations require additional resources for training, consulting, coaching, facilitation and other services. Consequently, the Working Group urges the Lawyers Trust Fund, as part of its grant process, to make a pool of funds available to support individual legal aid organizations in thoughtfully addressing their most critical diversity-and-inclusion related needs.

Recommendations for Collaborative Improvement

Given the scale of the challenges involved, it is both more effective and more efficient for the legal aid community to tackle many of these challenges through collective efforts. The following recommendations fall into this category:

- 1.1 Develop and share best practices for job postings.
- 1.2 Create a recruitment distribution list.
- 1.3 Build a pool of diverse candidates through affirmative outreach.
- 1.6 Provide information about legal aid opportunities.
- 1.7 Provide ongoing training to legal aid hiring managers.
- 2.2 Create affinity groups for peer learning & support.
- 2.5 Share experiences.
- 2.6 Develop best practices to support people with disabilities.
- 2.7 Study the effects of compensation on employee retention.

How LTF Can Help: The Lawyers Trust Fund should provide financial support for implementing the collaborative efforts listed above. If desired, the Working Group, which was convened by LTF, will continue and provide oversight and support for these activities. This oversight would include prioritizing and refining the ideas based on additional feedback from the legal aid

community, as well as designing specific projects and programs to put them into practice. Given the time and expertise required to carry out these activities, additional funding for a consultant to play a lead role, under the Working Group's supervision, would probably be necessary.

Finally, the Working Group urges the Lawyers Trust Fund to continue to support the annual diversity & inclusion survey.

CONCLUSION

Meeting the challenge of increasing diversity and building inclusive cultures within the Illinois legal aid community will not happen overnight. It will require a consistent and ongoing commitment from all stakeholders in the legal aid system, including organizational leaders, staff, board members, and funding entities.

The members of the Working Group thank the Lawyers Trust Fund of Illinois for the opportunity to contribute to this ongoing and important conversation, and to make recommendations for additional investments that will contribute to further progress. The following quote from a Working Group member provides an appropriate conclusion to this report:

“Not only will this work improve legal aid, it will improve the quality of the representation received by the clients it serves. I was honored to have even a small part in it. There is no other legal aid space that I have entered where I have learned so much and been so inspired about the bright future of this community.”

ILLINOIS LEGAL AID DIVERSITY & INCLUSION WORKING GROUP

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