

# **A Diversity, Equity, and Inclusion and Racial Justice Toolkit for Civil Legal Aid Organizations**

The Legal Aid Association of California's Inclusion, Diversity, Equity, Accountability in Legal Aid (IDEAL) Board Committee

**April 2021**

**This is a living document. As we continue to make changes please follow [this link](#) to view the most current version. To offer feedback and help the work flourish, please use [this survey](#) .**

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## Forward

Diversity, Equity, and Inclusion are terms that mean many things to different people. In the context of this toolkit, when we talk about Diversity, Equity, and Inclusion (DEI), we are always talking about racial justice, and the systemic change necessary to build a future without systemic oppression. Racial justice encompasses so much but, for us, it means examining systems of oppression that go way beyond our organizations, beyond the time we are in, and beyond the everyday interactions that happen inside and outside of our organizations, although it includes all of these aspects. As discussed throughout this Toolkit, racial justice requires us to look at how systemic racism<sup>1</sup> functions on an everyday basis. We need to move beyond symbolic gestures and towards the complicated, messy, and utterly necessary work of transforming our organizations, ourselves, and the systems we are all part of to build a future that is truly just.

We offer this Toolkit from our vantage point of working extensively with the legal services community, and drawing on the knowledge of Black, Indigenous, and People of Color, LGBTQQIA2S+<sup>2</sup>, and members of our community with disabilities,<sup>3</sup> and within our own organization as we make improvements as well. This toolkit would not exist without their knowledge, lived experience and labor, and for that we are grateful. We recognize that the knowledge and experience contained in this toolkit is not universal or all-encompassing and do not offer it as a definitive document. Rather, we offer this as a contribution to the larger urgent conversations around equity in justice that are happening in our community. This is an evolving document, and we welcome contribution, feedback, and critique from our community to help it grow into a useful tool. We hope that it may be of use.

Salena Copeland

*Executive Director, Legal Aid Association of California*

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<sup>1</sup> See, e.g., *What is Racism?*, Dismantling Racism Works, <https://www.dismantlingracism.org/racism-defined.html>.

<sup>2</sup> LGBTQQIA2S is an acronym that stands for lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, and 2 (two) spirit, a term specific to gender variant individuals who also identify as indigenous.

<sup>3</sup> Person-first language (e.g. “person with a disability” rather than “disabled”) is used to emphasize the individuality, equality and dignity of people with disabilities. Some individuals choose to self-identify as “Disabled” frequently with an intentional capital “D” to remove the shame and stigma of having a disability. If you yourself do not have a disability best practice is to use person-first languages. Best practice language changes on an ongoing and rapid basis. Please always follow the guidance of communities with direct lived experience, and guidance from organizations specifically working on these topics.

## **About IDEAL Committee**

The Inclusion, Diversity, Equity, Accountability in Legal Aid (IDEAL) Committee is part of LAAC's Board. The committee strives to support systemic change, institutionalize racial justice values, and support the broader legal aid community in engaging with Diversity, Equity, and Inclusion (DEI) work. The IDEAL Committee seeks to create and share best practices among California's legal aid community for equitable hiring and retention of diverse staff, and promote and support the creation and sustainability of diversity, equity, and inclusion initiatives and efforts among California's legal aid community. IDEAL's goal is not only to build sustainable, welcoming, and effective legal aid organizations, but is also to embed a racial justice philosophy into all aspects of the legal aid infrastructure to ensure accountability to the communities we serve.

## **How to Use This Toolkit + Big Picture Takeaways**

DEI is a vast subject, encompassing many frameworks and approaches. For this toolkit, diversity, equity, and inclusion means more than making space for more people from historically marginalized backgrounds in positions of power (though that is certainly part of it). Diversity, equity, and inclusion work means reckoning with the deep histories of violence and marginalization in our country, in our communities, and within the legal aid field. The primary goal of this toolkit is not to convince you (or give tools to convince others) why this work is necessary. There are many brilliant thinkers, authors, poets, and organizers who have done, and continue to do that work in ways better than we could ever dream of doing (please see addendum for a brief list of recommendations). Rather, this toolkit seeks to give the reader tools to affect these necessary changes: practical policies, process guides and frameworks to use to build more equitable, diverse, inclusive, and accountable organizations.

We recognize that this is uncomfortable work. Deep reflection and recognizing the ways in which we participate in harmful systems is never easy. And it is necessary now as much as it ever has been. The global pandemic and civil rights movement of 2020 have again shown that the way our current society is structured is untenable. As legal aid professionals, we know that systemic racism, ableism, poverty, homophobia, and many, many more systems of oppression are an integral part of our clients' experiences, our coworkers' experiences, and our own experiences. DEI work, however uncomfortable, is an essential intervention to build organizations and a legal system that serve our communities and work towards a truly just and equitable future for all.

This is monumental work, and trying to balance the level of detail these topics deserve while creating a manageable, usable toolkit has been quite the challenge. While we recognize that no such easy separation is truly possible, this toolkit considers DEI work in two ways: internal-facing and external-facing. By internal-facing, we mean the work

we do in our legal aid organizations to: improve them by making them more reflective of the communities we serve (increase diversity); make them more equitable (recognize and address how power structures and resource distribution exist within our organizations and the barriers they produce); and make them more inclusive (get rid of these barriers to participation, collaboration, and effectiveness for all).<sup>4</sup> By external-facing, we mean: connecting with community-based organizations (especially non-institutionalized, grassroots efforts) towards transformative systemic change; and working to create positive, culturally competent, trauma informed client experiences, both of which largely reflect a lot of the values of creating equitable, inclusive spaces. Building more equitable organizations means reckoning with both the internal and external facets of DEI work. One cannot be separated from the other, much as the individual experiences of oppression cannot be separated from their systemic roots.

While policies are an important piece of DEI work, intentional culture is a key component for effecting lasting changes in any organization. A lack of an institutionalized culture of DEI and racial justice is not the absence of a culture, but rather a culture that does not remove barriers, interrupt bias and discrimination, or recognize the ways that employees and clients alike interact with systemic racism and other oppressive structures on a daily basis. Put differently, without a culture that features and lifts up an intention toward diversity, equity, inclusion, and racial justice, your organization's culture instead replicates, entrenches, and reproduces dominant white supremacist, ableist, and homophobic cultures. Essentially, resisting the status quo requires intentional engagement.<sup>5</sup> While this Toolkit is just one attempt to critically engage with these issues in legal aid, the big picture is that DEI and racial justice are not only important for how we run our organizations by making them equitable and inclusive, but also for how we think about our work and role in larger communities and movements.

As this is a document that emerged from a board-led committee, the primary audience of this toolkit is people in leadership roles at other legal nonprofits. However, throughout this toolkit, we want to recognize and remind the reader that a key part of DEI work is deeply engaging with the way power is distributed within our organizations. Given the predominantly white makeup of our boards and leadership, DEI processes cannot ever be top-down. It is essential to make sure that people at all levels of our organizations are heard and included, and that our process for creating more equitable, accountable, and inclusive organizations are themselves equitable, accountable, and inclusive.

This Toolkit was created by LAAC staff with help from the LAAC board and input and contribution from the broader legal aid community. It reflects the lived experience of some of the people who drafted it, with other LAAC staff and board members engaging

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<sup>4</sup> See, e.g., *What is DEI?*, D5, <https://www.d5coalition.org/tools/dei/>.

<sup>5</sup> See, e.g., Evelyn R. Carter, *Restructure Your Organization to Actually Advance Racial Justice*, Harvard Business Review, <https://hbr.org/2020/06/restructure-your-organization-to-actually-advance-racial-justice>.

as allies (or even accomplices<sup>6</sup>) in drafting it. The important point we want to make up front, as noted in the Forward above, is that our organization as a whole is not an expert on this topic. As the membership organization for over 100 legal services nonprofits, our role is to coordinate and advocate for and with those nonprofits. This Toolkit serves as a jumping off point to move our community forward with reflection, discussion, and research into building a more diverse, equitable, and inclusive legal aid community, both internally for folks at our organizations, and externally for the communities we strive, every day, to support. Each section offers in-depth discussions, and while we recommend readers start from the beginning, the toolkit is also designed such that you can “skip” to the section you are looking for to address immediate concerns on a specific topic.

We hope that someday the systems of oppression that require low-income Californians to need legal aid in all its iterations, whether public interest lawyering, community lawyering, or rebellious lawyering, are dismantled. We imagine a world where diversity, equity, and inclusion is not needed because justice in all forms (racial justice, economic justice, (dis)ability justice, LGBT+ justice, and all others) has been achieved. In the interim, we consider this a “living” document. We want it to inspire discussion, feedback, and community input, so please get in touch with us at [ideal@laaonline.org](mailto:ideal@laaonline.org) about edits, comments, suggestions, and anything else.

## Vocabulary + Self-Assessment Tools

### Vocabulary Glossaries

The below community-created glossary provides one example of how to define many of the terms referred to throughout this toolkit. Vocabulary is not just how we phrase ideas. Many of the terms we utilize are indicators of how we think about those ideas, and how we consider they should be actualized. Check out the *Racial Equity Tools Glossary* from Racial Equity Tools.<sup>7</sup>

*We plan on creating a community-sourced glossary to define many of the terms used in this toolkit to ensure it is as accessible as possible. If you are interested in supporting this project please reach out to us!*

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<sup>6</sup> See, e.g., *Opportunities for White People in the Fight for Racial Justice*, [https://f328189e-e271-46c1-a265-0762208dc4b5.filesusr.com/ugd/3c837a\\_842afcbefaae4d0baced6b1c1f23f1a2.pdf](https://f328189e-e271-46c1-a265-0762208dc4b5.filesusr.com/ugd/3c837a_842afcbefaae4d0baced6b1c1f23f1a2.pdf).

<sup>7</sup> Available at <https://www.racialequitytools.org/glossary#black-lives-matter>.

## Organizational- and Self-Assessment Tools

There are many organizational- and self-assessment tools for you and your organization to engage in reflection. Here, we lift up the organizational assessment tools and resources from Racial Equity Tools.<sup>8</sup>

### Note on the Implicit Bias Framework

Despite some drawbacks to a focus on implicit bias, such as over-emphasizing the individual and interpersonal aspects of racism at the expense of systemic understandings, it remains a valuable lens to understand one major facet of racism and oppression. By implicit bias, we mean “the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.”<sup>9</sup> The key is that these issues on a systemic level increase the likelihood that someone from a marginalized background might not be hired,<sup>10</sup> promoted, or otherwise achieve career goals or success relative to people occupying positions of institutional privilege. Understanding and undoing implicit bias is an integral component of building more equitable organizations.

## Organizational Health: Developing and Sustaining an Inclusive and Positive Work Environment Through DEI and Racial Justice

As discussed in Part IV, launching a DEI process fundamentally means creating, or reinforcing, an intentional culture at an organization. In many of our organizations, a key part of the process of beginning to shift towards a more intentional model of work is addressing and acknowledging the prior absence of this work and the impact that absence has had on the organization. You might not personally feel the absence of this culture, if your personal or social identities are not that of historically marginalized communities. However, nonetheless the impact is there and felt by other staff who do come from historically marginalized communities. This impact may also be felt by your organization’s clients similarly situated in terms of their social identities. By not having a

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<sup>8</sup> Available at <https://www.racialequitytools.org/plan/informing-the-plan/organizational-assessment-tools-and-resources>.

<sup>9</sup> *Understanding Implicit Bias*, Kirwan Institute for the Study of Race and Ethnicity at Ohio State, <http://kirwaninstitute.osu.edu/research/understanding-implicit-bias/#:~:text=Defining%20Implicit%20Bias,decisions%20in%20an%20unconscious%20manner>. While explicit bias also, of course, is part of systemic and institutionalized racism, we focus here on implicit bias and similarly invisibilized structures.

<sup>10</sup> See, e.g., Rebecca Knight, *7 Practical Ways to Reduce Bias in Your Hiring Process*, Harvard Business Review (June 12, 2017), <https://hbr.org/2017/06/7-practical-ways-to-reduce-bias-in-your-hiring-process>.

culture that centers DEI and racial justice, we risk producing toxic, difficult, and antagonistic work environments that make it hard for people who are not white, cis, or otherwise in possession of privileged identities to succeed.

But where do we begin? This is complicated, long-term work, yet too often our organizations and communities turn to partial solutions, such as:

- “One-off” trainings with a trainer that never returns
- Trainings by many different trainers where only surface-level conversations occur or where in-depth conversations are ended prematurely because of time restrictions,
- No follow-up conversations or plans following a training that surfaced specific changes needed for organizational health
- Isolating DEI conversations to a board only committee with no space for staff involvement

These sporadic opportunities are not ideal. DEI work involves systems change work, which requires a real time commitment to be effective. Systemic oppression is deeply entrenched in so many aspects of our organizations and society. However much we want, it won't be undone by a few meetings or trainings. However, the organizational realities for many of us in public interest and legal services do not allow us the privilege of unlimited time. The opportunities listed above can still push meaningful change provided that these strategies are a part of a larger plan to influence change within an organization. Incremental steps must be part of a larger, intentional process. Simply having general, surface-level training on implicit bias does not address the root causes of organizational health and may leave staff feeling deflated and disappointed. Board committees are an essential tool for impacting structural change in an organization, but limiting those conversations and processes to the board entrenches the same power dynamics and racial disparities that DEI work seeks to undo and moves the organization further from all forms of justice.

DEI work requires an organization's leadership to have open, honest, and transparent conversations with staff. The organization must commit sufficient time to address the root causes of DEI-related issues with sufficient support. If an organization has had a high turnover rate or a reputation of “churning through” staff, it is important to discuss this with transparency with existing staff in an intentional setting with support. It is helpful if leadership creates space for these conversations to happen with the support of outside facilitators trained in conflict resolution, communication, and de-escalation. In many organizations without a culture of reciprocal feedback and demonstrated accountability from leadership, staff might not trust the process, making it all the more important that DEI processes unfold in a way that makes staff feel heard and safe in sharing their perspectives without fear of retaliation from leadership.

If your organization does bring in a specialist to conduct a training, have a clear plan for how to support staff following that training. Be clear with staff that you are bringing in a specialist and that leadership is developing a plan to follow-up after the training. Budget time to conduct a debrief with the specialist and to create a plan for how to move forward. The plan should be guided by the issues staff identify in the training. Ask the specialist in advance to build the development of the plan into their training.

One framework is to hold a staff retreat with multi-step phases over the course of several days. The outside facilitators help create common vocabulary around communication, provide opportunities to practice in a “low-stakes” way, and provide opportunities for people to work individually, in pairs, small groups, and as a large group to identify what has worked well in the past for the organization and what has not worked well. If it is possible to do so, have the same facilitators help support the ongoing work of the organization over the course of a year or more. The relationship building between the facilitators and staff creates a trust that makes space to address ongoing issues related to organizational health.

Consider if your organization can work with a consultant, or non-profit organization, to develop a strategic plan specific to diversity, equity, and inclusion (DEI) or to update and integrate DEI into the existing strategic plan. Make a plan to work with the DEI provider for one to two (1-2) years and establish specific measurable goals that are realistic and ultimately attainable. Remember, even specialists can make mistakes and cause harm. It is important to speak honestly with a trainer if there is a misstep, and to work to repair any harm caused with staff. Quickly disposing of a facilitator your organization has built a relationship with and replacing them with another facilitator who may also inadvertently misstep does not resolve the issue and contributes to a culture of disposability. Staff may fear that they are just as replaceable as the consequence of a misstep. Consider repair before replacement and the severing of a relationship in its entirety.

Be sure to discuss the possibility of harm with staff in advance. Provide staff with opportunities to debrief after the training, both in affinity spaces and individually with supervisors. Consider having a board committee available for discussion with staff after a training. Schedule time for debriefing and avoid having this conversation immediately after a training when staff may feel drained and emotionally activated. It is important to have a debrief within a week of a training if possible, such that the content and impact is still clear in the mind and has had time to percolate. If your organization is working with a facilitator on an ongoing basis, consider incorporating them into the debrief in some way to help improve and inform future training sessions.

Consider offering surveys including the ability to provide anonymous feedback. Be conscientious of framing surveys to clearly state that discriminatory language and personal attacks are inappropriate and will not be tolerated. Remind staff of the difference between negative and constructive feedback. Encourage concrete examples of how a training could be improved, ask how expectations were or were not met, and

ask specifically for positive feedback as well. While facilitators are professionals, they are also human beings, and “feedback” that amounts to bullying or anonymous trolling should not be tolerated. If a particular response is inappropriate, consider eliminating it from the feedback provided to the facilitator as it may be harmful.

## Internal DEI and Racial Justice Efforts

In 2010, the Legal Aid Association of California (LAAC) commissioned a report, written by Kelly Carmody of Carmody and Associates, entitled [Shaping the Future of Justice](#). In 2019, while still unfortunately limited to attorney level staff, LAAC updated the questions posed to specifically reflect diversity, equity, and inclusion issues. The 2019 report, entitled [Justice at Risk](#) revisits key topics such as:

- Who has been hired
- Who has left
- Who are the current legal aid attorneys (Including legal aid attorneys’ race/ethnicity compared with employment start year)
- Who may leave legal aid soon
- Why may they leave (Salaries are the number one reason as well as crushing educational debt)
- Addressing whether insurance and retirement benefits make up for low legal aid salaries
- Identifying the competition (where attorneys go when they leave legal aid) and what the salaries and benefits are at the competition.
- Burn-out/lack of professional development and advancement
- Why attorneys stay in legal aid
- Recruitment of attorneys
- Conclusions and recommendations

The key recommendations from the 2019 Study included an array of strategies to enhance DEI, such as:

- Increasing salaries
- Filling leadership positions with a diverse group of leaders will also make an organization more attractive to applicants
- Broaden the law schools’ organizations recruit from, if the schools they normally recruit from are not very diverse
- Move up the hiring timeline, making it more likely they will be able to hire candidates who will enhance their organization’s diversity and are being recruited by other legal employers

- Work in partnership with other stakeholders like the State Bar of California on their initiatives to increase the diversity of the legal profession
- Other issue areas include acknowledging the implications of class and income and wealth gaps in terms of who gets to become a legal aid lawyer, in terms of financial concerns as well as issues around secondary trauma, and Increasing internal discussions and trainings around DEI

While the report only considered attorney staff, it provides valuable insight into retention issues at organizations, many of which impact staff at every level. We recognize, however, that in this toolkit, and in conversations ahead, it is important to recognize the ways in which DEI issues impact staff at every level, particularly as, while there is not yet formal data available, it is our understanding that non attorney legal workers represent a great level of the diversity in California’s legal aid community, and are every bit as deserving of inclusive and equitable working conditions and stable careers as attorneys.

## Recruitment (Hiring)

It is imperative that both leadership and staff at your organization consider what practices, formal or informal, demonstrate what the culture is like at your organization. Ask: is your organization a place where it is not safe to talk openly about diversity, equity, and inclusion topics and how they can manifest?<sup>11</sup> Or, is your organization a place that creates a brave and safer space to talk authentically about issues that arise? Workplaces where professionals can be their full selves are spaces that professionals are likely to thrive in and want to stay in, which is absolutely a retention issue for organizations. Consider what tone your organization sets and how that ultimately impacts both hiring and retention.

While there is a deficit of diversity, according to LAAC’s 2019 Recruitment and Retention Study, *Justice at Risk*, legal aid is significantly more diverse than the State Bar of California members, but still is not as diverse as possible.<sup>12</sup>

- 72 percent of legal aid attorneys identify as female (0.6 percent identify as non-binary or other) vs. 42 percent (1 percent identify as non-binary or other) for California State Bar members
- 53 percent of legal aid attorneys are White vs. 68 percent of California State Bar members

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<sup>11</sup> See, e.g., Tema Okun, white supremacy culture, [https://www.dismantlingracism.org/uploads/4/3/5/7/43579015/okun - white\\_sup\\_culture.pdf](https://www.dismantlingracism.org/uploads/4/3/5/7/43579015/okun - white_sup_culture.pdf).

<sup>12</sup> See also *Report Card on the Diversity of California’s Legal Profession*, State Bar of California (2020), <http://www.calbar.ca.gov/Portals/0/documents/reports/State-Bar-Annual-Diversity-Report.pdf>.

- 19 percent of legal aid attorneys are Latinx vs. 7 percent of California State Bar members
- 17 percent of legal aid attorneys are Asian/Pacific Islander vs. 13 percent of California State Bar members
- 5 percent of legal aid attorneys are Black vs. 4 percent of California State Bar members

We see that there are more attorneys who identify as female working in legal aid and a higher representation of attorneys of color. In particular, it is worth noting that Black attorneys are highly underrepresented in both legal aid as well as within the Bar as a whole as compared to the general population. Again, while this study is limited to attorney staff, it's an important piece of insight for considering diversity in the legal aid community at large. In sum, there is a more extreme deficit of diversity overall in the legal profession, but there is much room for increased diversity in legal aid as well.

## Hiring Committee Practices

Organizations should consider how diversity, equity, and inclusion practices are integrated into hiring. Hiring committees should include people from different backgrounds and experiences and should not consist of only white, cisgender (meaning not transgender), heterosexual staff. Committees should include people from multiple areas of the organization whenever possible, including management and non-management, attorneys and non-attorneys. As reported in the 2019 report, one participant noted that their hiring committee includes at least two people of color and is composed of lawyers but also other advocate staff members. Many organizations specifically include a diversity question in the application, or ask for a diversity statement from all applicants in addition to a standard cover letter.<sup>13</sup>

We recommend including a statement on the job posting which specifically states your organizational commitment to diversity. For instance, LAAC includes on our hiring/employment page, this statement, which we adapted from the statements of other legal aid organizations:

LAAC seeks to fill all positions with people who share our values, including our organizational commitment to diversity. We encourage all interested individuals to apply - especially people of color; women; people from low-income backgrounds; people with disabilities; people who are lesbian, gay, bisexual, transgender, gender non-conforming, non-binary; or anyone belonging to any other federal or state protected category.

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<sup>13</sup> See generally Joan C. Williams, Marina Multhaupt & Sky Mihaylo, *Why Companies Should Add Class to Their Diversity Discussions*, Harvard Business Review (Sept. 5, 2018), <https://hbr.org/2018/09/why-companies-should-add-class-to-their-diversity-discussions>.

Your organization can also think about how to connect your internal process to a stated and agreed upon purpose related to organizational diversity. For example, the Legal Services Corporation (LSC) has an internal process grounded in this purpose:

- *Increase diversity in the candidates interviewed and hired*
- *Standardize and create transparency within the hiring process*
- *Ensure staff hired share values of cultural humility*

In order to achieve that purpose, LSC uses the following strategies<sup>14</sup>:

- *Involve staff who are specifically committed to diversity in hiring throughout the hiring process*
- *Provide training for staff who are interested in participating in future hiring which includes the importance of diversity; how to increase diversity in the interview pool; and how to monitor one's own implicit bias and bias in the interview and hiring process*
- *Create a screening committee which consists of staff who have received the above training*
- *Reduce the level of logistical responsibility placed on non-management staff*
- *Provide clarity on the role and decision making of non-management staff to ensure a consistent and predictable process*
- *Consider a consensus process for special circumstances (potential hire who was a temporary employee or came through volunteer service, work study employment, internship, externship, clerkship, "employment pipeline" or "incubator" programs)*

Relatedly, the Law Office of William Kennedy - Race Equity Project Debiasing Techniques<sup>15</sup> guide offers some recommendations, which include:

- *Use a diverse hiring committee*
- *Set and commit to criteria that adopt diversity approach*
- *Do not review resumes or applications until criteria are agreed upon<sup>16</sup>*

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<sup>14</sup> See, e.g., CCEIL Cohort Staff Convening (June 26, 2018), [https://docs.google.com/document/d/1uVDn\\_k1PNm3RbolBzdlu-V1WWtLVBoiUhxIvsBvSoDo/edit](https://docs.google.com/document/d/1uVDn_k1PNm3RbolBzdlu-V1WWtLVBoiUhxIvsBvSoDo/edit).

<sup>15</sup> See, e.g., Race Equity Project – Debiasing Techniques, [https://drive.google.com/file/d/1ZSn7YOJ8m1TfSUY\\_y6RuVQT5VNn7x3r0/view](https://drive.google.com/file/d/1ZSn7YOJ8m1TfSUY_y6RuVQT5VNn7x3r0/view).

<sup>16</sup> Organizations might also consider piloting a change wherein individuals on the hiring committee cannot see each other's scores until the committee meets to discuss the applicants.

- *Use the same areas of inquiry for all candidates tied to hiring criteria*
- *Allow time for reflection between last interview and hiring decision*
- *Ensure that diverse voices are welcomed and present in major structural, goal settings, mission and scope of work decisions*

You can also build in a diversity statement prompt, which is what Bay Area Legal Aid does:

**In a separate page from your cover letter, please address the following:**

BayLegal’s clients are low and very-low income members of our communities. They include the working poor, seniors, veterans, and people with disabilities. To ensure our organization is best serving these populations, BayLegal strives to promote an evolving set of behaviors and attitudes amongst our staff, as well as policies that enable us to work effectively in all cross-cultural situations with clients, with our coworkers, and with the community. We see this as a commitment to enhance the provision of our services to all clients; to raise the level of positive client outcomes and to create an inclusive and respectful workplace in which differences are acknowledged and valued. How do you think your personal background or experiences, professional or otherwise, have prepared you to contribute to our commitment to cultural humility and diversity amongst our staff? Feel free to think broadly about your response to this question, applying various aspects of your life and personal experiences.

In addition, organizations include diversity-related questions in the interview questions posed to all applicants.<sup>17</sup> The hiring committee specifically talks to every applicant, during interviews, about the organizational commitment to diversity and includes these discussions in each step of the interview process. This is meant to demonstrate to applicants who are a part of a historically marginalized group that they will be supported and considered if they are hired. This also sets a tone for individuals who are not a part of a historically marginalized group that the expectation is that they think about how to support others in the work environment. This creates a baseline cultural standard that values everyone making their best effort to not inadvertently cause harm to others which requires a best practice of actively thinking about one’s actions, behaviors, and words.

For interviews themselves, remember to provide access information for your office and to provide an opportunity for candidates to ask for accommodations. If there is a skills test, provide the offer for reasonable accommodations as well. Be sure that on the day of the interview, staff are well rested, hydrated, have had a break, and that interviews are not scheduled back-to-back. Having all applicants awkwardly wait in the same space is anxiety-producing for applicants and sets a tone that you do not consider the

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<sup>17</sup> See, e.g., CCEIL Cohort Staff Convening (June 26, 2018), [https://docs.google.com/document/d/1uVDn\\_k1PNm3RbolBzdlu-V1WWtLVBoiUhxIvsBvSoDo/edit](https://docs.google.com/document/d/1uVDn_k1PNm3RbolBzdlu-V1WWtLVBoiUhxIvsBvSoDo/edit).

impact of not spacing the interviews out. In addition, scheduling sufficient time when possible in between interviews helps the hiring committee stay engaged with the candidate during the interview and retain a sense of the candidate's responses and have enough time to debrief together and take much needed bio-breaks.

## **Finding “Diverse” Staff**

Consider whether or not your organization has made a commitment to racial justice and cultural humility that is included in the mission statement, values, marketing, communications, and branding of the organization. Creating organizational values around cultural humility helps to attract candidates with the same values. Consider ways to create pathways to employment for law clerks, work study students, and volunteers.

The first interaction a potential applicant may have with your organization is through your website. Start by reviewing the questions below to consider how to make changes that may help attract applicants who value cultural humility practice and are committed to working at a legal aid nonprofit that incorporates diversity, equity, and inclusion values internally and externally.

- Does your organization have a staff webpage with photos, staff names and pronouns, and a description that includes a warm and personalized touch?
- Are only managerial staff names or photos provided?
- Does management reflect the stated organizational diversity values?
- Are client stories told with dignity and respect and through a cultural humility lens?<sup>18</sup>
- When applicants apply, are they able to easily find the names, honorifics (Ms., Mr., Mx., or other), and pronouns for the staff to whom they must address their application materials?

It is highly recommended that the post include a statement on your organization's commitment to hiring in a manner that practices DEI and racial justice principles. For example, Movement Law Lab in a recent job post stated: “People of color, women, LGBTQ people, people with disabilities, and individuals with past involvement in the justice system are strongly encouraged to apply.”

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<sup>18</sup> See Elizabeth Arledge, *The Latest Messaging Research by Voices for Civil Justice*, <https://mielegalaid.org/system/files/dl/MessageResearchArledge.pdf>.

For example, a statement could say something like:

If you find that you meet many of the qualifications in the job description we encourage you to apply, even if you don't meet every qualification. We recognize that organizations may miss out on strong applicants who screen themselves out of the process because they do not meet every qualification. This disproportionately impacts people from historically marginalized backgrounds. In support of our diversity statement, and organizational values, please do let us see if we think you could in fact be a great fit.

Furthermore, in order to attract candidates, consider updating where you post opportunities, including which public-facing websites you use as well as which law schools you contact to post on their pages. There are numerous job postings services utilized within the legal aid community, too; for example, LAAC has a job posting site available for free to all LAAC member organizations.

Last, it is essential to be mindful of job qualifications and language in the job descriptions. This can be a barrier<sup>19</sup> because it blocks all of the people who might see the qualifications as something always out of reach. For example, when LAAC surveyed our member organizations in 2019 to determine what types of training our member organizations would like for new attorneys, one of the top responses was improved writing skills. There are limitations to the writing skills attorneys develop in law school, and while everyone receives the same JD, there are a wide variety of expectations between institutions, and even individual professors. It is best to not exclude valuable potential employees based upon their need to improve specific skills, and instead to maximize the strong areas in which employees excel, and determine ways to support their improvement in other areas such that they do not feel demoralized or defeated. Ask yourself if a person with exceptional interpersonal skills, with the ability to manage everyone's court calendar really needs to be able to write graduate-level emails. Consider if there are ways to reimagine job descriptions, and redistribute labor to make it possible to hire someone that wouldn't otherwise be considered hireable.

## **Retaining Diverse Staff**

The areas that impact retention are vast, from advancement to burnout and secondary trauma. This toolkit highlights areas specifically addressed in the above referenced recruitment and retention reports. Nearly one-third of the legal aid attorneys in LAAC's 2019 Recruitment and Retention Study *Justice at Risk* may leave within the next three

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<sup>19</sup> See, e.g., Tara Sophia Mohr, Why Women Don't Apply for Jobs Unless They're 100% Qualified, Harvard Business Review, <https://hbr.org/2014/08/why-women-dont-apply-for-jobs-unless-theyre-100-qualified>.

years, with 92 percent of these attorneys saying they may leave within the next two years. According to *Justice at Risk*, the top reasons attorneys leave are low salaries and a lack of career advancement, as compounded by other factors like educational debt,<sup>20</sup> cost of living, and high workload demands and burnout.

**For attorneys of color and others from marginalized backgrounds, these issues may be magnified.** Regarding debt, for the most recent law graduates, attorneys of color are more likely to have educational debt than White attorneys (85 percent vs. 80 percent), and have a higher median debt burden (ranging from \$200,000 – \$225,000 vs. \$175,000 – \$199,000), with a median range of \$200,000 to \$225,000. To address these financial and other stressors, an organization must assess strategies to deal with these issues for all attorneys, with specific attention to the intersectionality of debt, income, and identity.

**Another key concern is advancement and diversity.**<sup>21</sup> Although the overall racial/ethnic diversity of legal aid attorneys has been increasing, the proportions of attorneys of color in supervisory and management positions lag far behind. While attorneys of color are nearly half of the staff attorneys at legal aid organizations, as of 2019, *they were just 25 percent of Executive Directors and 30 percent of Senior Legal Management, the two highest job titles.* Similarly, nearly half of the attorneys of color are under age 35, compared to around 40 percent of white attorneys. Law students and attorneys of color want to be in organizations that have attorneys of color in leadership. There must be clear pathways for advancement as well as mentorship.

**Finally, most attorneys feel their workplace is inclusive, but there is room for improvement in terms of both policies and culture.**<sup>22</sup> 84 percent of attorneys of color feel like they work in an inclusive workplace at their legal aid office, compared to 81 percent of White attorneys. For individuals experiencing a disability, this number was 75 percent. 83 percent of respondents who identified their sexual orientation as other than heterosexual (lesbian or gay, bisexual, pansexual, asexual) said their workplace is inclusive. However, attorneys who thought they might leave their job soon generally rated their office lower in terms of inclusivity than those who think they may stay (72

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<sup>20</sup> See also Public Interest Drift, State Bar of California (2019), <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/California-Law-Student-Survey.pdf>.

<sup>21</sup> See, e.g., Joan C. Williams & Marina Multhaupt, *For Women and Minorities to Get Ahead, Managers Must Assign Work Fairly*, Harvard Business Review (Mar. 5, 2018), <https://hbr.org/2018/03/for-women-and-minorities-to-get-ahead-managers-must-assign-work-fairly>.

<sup>22</sup> See, e.g., Juliet Bourke & Andrea Espedido, *The Key to Inclusive Leadership*, Harvard Business Review (Mar. 6, 2020), [https://hbr.org/2020/03/the-key-to-inclusive-leadership?referral=03758&cm\\_vc=rr\\_item\\_page.top\\_right&registration=success](https://hbr.org/2020/03/the-key-to-inclusive-leadership?referral=03758&cm_vc=rr_item_page.top_right&registration=success).

percent vs. 87 percent), which could show that those who are leaving have issues with their organization's commitment to DEI.

Moreover, of those attorneys who may stay, 90 percent of attorneys of color said the workplace feels inclusive, which could suggest the correlation, that inclusive workplaces might inspire people to stay. However, specifically regarding internal DEI policies, employees were less positive. Rating their policies on a scale of 1 - 4 (4 being excellent, 3 being good), just 35 percent of attorneys of color rated their organization's policy as excellent (4), with attorneys of color on average rating the policy as good (3). White attorneys were, on the whole, less positive than attorneys of color, on average rating the policy lower than attorneys of color (below a 3). Both attorneys with disabilities and attorneys who identified their sexual orientation as other than heterosexual averaged less than a 3 rating.

Furthermore, there are additional topics attorneys have shared that are personally and professionally important to them which may be encompassed within the "personal reasons" for leaving an organization. These topics include: creating a culture with intentionality; addressing unrecognized harm; management/leadership style; organizational structure such as a hierarchy, collective, union; organizational relationship building; and work performance as it relates to implicit bias a part of one's professional review.

This toolkit specifically discusses why staff may choose to transition to a different employer while staying in legal aid, including attorneys who are terminated by their employer or intentionally choose to leave for a new employer. It is important to consider these reasons closely and to not dismiss these phenomena as a "poor organizational culture fit." Please see the section below on creating a culture with intentionality which addresses the concept of a "culture add" versus "organizational culture fit" for a more robust discussion of this topic. Consider if high turn-over is related to issues that may be attributed to "organizational cultural fit" by either the employer or the employees who have left.

## **Salaries**

According to [\*Justice at Risk\*](#), the number one reason legal aid attorneys plan to leave their job soon is financial stress caused by low salaries. This financial stress is exacerbated by the high cost of living in California and increasing student loan expenses, disproportionately impacting attorneys of color who report a higher educational debt burden. Attorneys surveyed commented that it is financially impossible to remain in legal aid without a spouse/partners' income and noted that their low salary prevents them from owning a home or having children. In fact, nearly one in five of the legal aid attorneys surveyed have taken on second jobs to supplement their salaries.

Furthermore, in the 2019 Study, respondents noted that coming from a less privileged or low-income background can impact someone's relationship to salaries, debt, and other issues of retention like secondary trauma. As one attorney noted in the Study:

Many of my peers of color were passionate about public interest work but were afraid of not being able to find a job ... paying back massive loans and surviving on a legal aid salary. The truth is that many legal aid organizations are staffed by people with a certain level of privilege, people who did not come from low-income backgrounds and aren't worried about taking care of low-income family members. Many also have partners who work in high paying jobs and are able to support them. If you really want to recruit and retain a diverse workforce, and people who come from the communities we serve, then you have to pay them enough.

On top of this financial stress, legal aid attorneys report high levels of emotional exhaustion, demanding client interactions, frustration, and difficulties determining where their job begins and ends. As noted in the 2019 Study, being under financial stress and working in an environment where working more is never enough can cause dedicated and passionate attorneys to reach their limits and leave. Recruiting and retaining a diverse staff of legal aid attorneys in a sustainable manner will require organizations to increase attorney salaries to (1) be competitive with other legal employers, (2) ensure they meet the high cost of living, and (3) let legal aid attorneys know their work is valued. Organizations must also ensure that payment of salaries, including any raises and promotions, are done in a fair, equitable, and transparent manner. Salary data should be periodically reviewed to identify and eliminate inequities that may exist, and organizations should consider hiring a DEI consultant to further review this data.

Organizations should also consider starting or expanding a Loan Repayment Assistance Program (LRAP) to assist attorneys in managing large student debt burdens. Student loan debt has increased dramatically in recent years, resulting in reports of immense levels of stress and anxiety among public interest attorneys. According to the 2019 Study, nearly half of the former attorney survey respondents said new or additional LRAP assistance would have impacted their decision to leave their position. Of those attorneys who think they may leave soon, 61 percent said new or additional LRAP assistance would impact their decision to leave their position. The median annual amount reported that would make a difference is approximately \$10,000.

### **Reason to Leave Legal Aid: Burnout**

Nearly a quarter of legal aid attorneys leaving soon stated that one of their primary reasons for leaving is burnout, while another 19 percent listed it as a major reason. High numbers of all attorneys noted that they experienced situations that can lead to burnout, like feeling emotionally drained (66 percent); demanding client interactions (59 percent); frustration (59 percent); and difficulties with boundaries around where their job begins/ends (43 percent). These numbers are higher for those who might leave legal

aid soon. There are a number of critical approaches to preventing burnout by looking to ensure a good work/life balance, such as vacation time, mental health resources, flex days, and more.

### **Flexibility: Work from Home Opportunities and the Magic of a Thirty-Five (35) Hour Work Week**

Providing work from home opportunities and a schedule that maintains a thirty-five (35) hour to forty (40) hour work week helps support attorneys and other advocates experiencing secondary trauma<sup>23</sup> from hearing traumatic narratives from clients, in addition to responding to the emotional demands of clients, and overwhelming workloads. Consider how to reduce caseloads so that attorneys are not consistently working after-hours, often ten (10) or more hours per weekday and during weekends. Show appreciation for the work that employees are doing by offering positive feedback and gratitude and not pushing for employees to work longer hours and take on more cases when they are already overwhelmed. In addition, the number of hours worked is not the sole indicator of whether or not staff are overwhelmed.

Telecommuting means working from a remote location, such as an employee's home, on a regular basis for all or part of the employee's regularly scheduled workweek. Telecommuters use technologies such as telephones, facsimile (fax) machines, computers, email, and "cloud-based" servers instead of traveling to and from an office location. For exempt employees, telecommuting may be set as one day per week or every other week, or may be offered monthly, or other even more flexible arrangements depending on the size and culture of the organization.

Your organization may wish to consider instances in which non-exempt employees may be eligible to work from home such as:

- Air Quality reaches a level unsafe for travel to the office
- A statewide and/or national pandemic
- The office internet or power is out
- The employee has a medical appointment mid-day and travel to and from the office is impractical
- Reasonable accommodation request

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<sup>23</sup> "Secondary trauma is defined as indirect exposure to trauma through a firsthand account or narrative of a traumatic event." Rose Zimering & Suzy Bird Gulliver, *Secondary Traumatization in Mental Health Care Providers*, Psychiatric Times (Apr. 1, 2003), <https://www.psychiatrytimes.com/view/secondary-traumatization-mental-health-care-providers>. The [Trauma Stewardship Institute](#) provides frameworks, and intervention strategies for providers experiencing secondary trauma and offers training for legal professionals.

- Temporary need due to temporary circumstances (change in child-care needs, employee is moving residence, to support a class schedule if the employee is taking for instance a language course that is only offered at a time during work hours)
- Travel into the office is practically impossible due to public transportation shut-downs or major delays
- Other appropriate emergency circumstances, as determined at the discretion of the Executive Director or in their absence and appropriate designee (such as the Deputy Director)

Remember to consult with Human Resources and your own legal counsel about creating a policy that does not alter the basic terms and conditions of employment and is otherwise in compliance with the law. The sample policies offered in this toolkit are not legal advice and are not a substitute for seeking support from your own legal counsel.

If your organization does not have a work from home policy, consider developing one. Rather than creating an eligibility standard based on the amount of time someone has been in their role and focusing on staff who are already burned out and at risk of leaving, consider adopting a policy that can be used as a burn-out prevention tool. Instead of having to earn a supportive schedule, start with the belief that everyone deserves a schedule that improves productivity and emotional health. A good work from home policy serves as a preventative prescription against burn-out and an active tool for retention.

The Coronavirus 2020 global pandemic shifted work from home policies across the globe. Many employers that did not offer work from home opportunities have had to pivot and create policies. Those with more restrictive policies made adjustments to provide for a one hundred percent work from home for all staff in which it was not physically required by their work itself to be on location (such as facilities staff). Many employees are wondering when they may have to return to work, and if these policies will remain in place.

It is important that employers consider where flexibility can remain, not just because of health and safety considerations, but as a retention issue. There are far more work from home opportunities than ever before, and many employers who did not previously offer any options now must decide what essential in-person employment means in the landscape of this new environment. It is recommended that Human Resources and leadership survey staff to determine possible retention issues. Providing opportunities to provide anonymous feedback may help staff be more transparent.

Consider factors such as:

- Did the employee become financially responsible, or begin providing in person care for others they were not responsible for prior to the pandemic?
- Did employees have to move as a result of changed housing conditions? If yes, did they have to move more than once?
- Is the employee's commute the same or different?
- Do employees who previously took public transportation need a different option?
- Is there free and reserved parking available that can be offered?
- Does the employee have a disability or disability-related need that has been better met through working from home?
- Are they considering employment elsewhere that offers more work from home flexibility?

These types of questions can be generally applicable while not amidst a pandemic. These are the same barriers that employees face that typically are considered "personal circumstances" that might cause a retention issue. Consult with Human Resources and create a best practice of surveying around these types of needs on a regular basis regardless of a public health crisis.

### **Retention Value in Hiring Temporary Staff (Additional Support During Leave of Absence)**

If an employee is out of the office on leave consider hiring temporary staff to help alleviate the potential strain on their colleagues, a strain which may build resentment and negatively impact retention. The impact of two months without sufficient support can have a hugely harmful impact on the morale of staff. In addition, this can be difficult for the staff who take the leave.

When staff without temporary support return, their work may not be in a manageable state as others simply did their best in their "spare time." In the case of exempt employees "spare time" typically means a "working lunch," after hours, or on weekends. Staff may be resentful and emotionally frustrated at the returning staff member which also has a negative impact. Include the staff member going on leave in a conversation about how they can best be supported when they return.

Consider hiring temporary support whether the employee out on leave is an attorney or is in another role at the organization. If a paralegal or staff providing significant administrative support is out on leave, the impact is also significant and should be recognized as such; especially if the attorneys will be directly impacted by not having that support. Remember, you send a message about the value of a role if additional

support is provided for some roles during a leave of absence but not for others. Consider everyone who may be impacted by a leave of absence and have honest conversations with staff about their needs. If you cannot provide temporary support, create a plan with, rather than for, impacted staff which will help ease the strain of the leave of absence.

### **Care in Contract Deliverables**

Work with funders to help them understand the importance of creating requests for proposals (RFPs) that do not focus solely on the number of clients served (volume) and instead place value upon high-impact cases and successful outcomes. Work with other organizations who apply for similar funding to take a stance in solidarity with one another when engaging with funders. Rather than undercutting another local organization to obtain a contract by agreeing to see more clients, consider how you may share a contract with another organization to make the workload manageable. Consider opportunities for joint clinics, and reciprocal warm referrals rather than a competitive model.

Ask yourself as leadership whether you are agreeing on behalf of all of the employees that your organization will take on an unmanageable workload in exchange for funding. Consider ways to diversify funding so that your organization is not reliant upon contracts with unrealistic deliverables. Remember, while there is a value in brief services, if your organization is reduced to providing limited guidance and then leaving a low-income Californian to navigate the rest of the legal process on their own, this could impact the reputation of your organization within the community and the level of trust members of the public have in seeking services from your organization if they expected full representation. This also impacts public perception of legal aid and the legal profession as a whole.

Keep in mind that attorneys who come from a low-income background may be particularly distressed by being limited to providing brief services and seeing the impact on a community that they are from. If that is the case, the issue isn't the perspective of the distressed employee but rather whether your organization has strayed from its goal of providing full representation because of promising too high of a volume in the contract. When setting expectations around caseloads and deliverables, refer back to your mission statement and core values. Consider talking to staff about how a contract would change their workload before agreeing to take on more work, especially more work that will not result in a change in salaries or an ability to provide raises.

Make sure to consider opportunities to subcontract, at an equivalent financial gain, to community-based organizations and other legal non-profits who can share the workload and help build community relationships. By reducing competition between organizations, and focusing on working collaboratively as a community of providers, we can reduce unbearable caseloads and better serve communities. This will also support

retention and recruitment by alleviating overburdened staff who, first and foremost, might be working in a high stress, relatively low pay environment, the effects of which can be mitigated.

## **Creating Organizational Culture with Intentionality**

### **Organizational Culture Fit Versus Organizational Culture Add**

Both for-profit and non-profit organizations have discovered the liability risk of deeming a potential applicant or current employee a “culture fit.” Traditionally, leadership focus has been on how well an individual fits into an existing workplace culture and is thought to be tied to the mission statement and organizational values. However, how culture fit is assessed can inadvertently lead to “similarity error,” which is where leadership has a preference for an individual who is similar to them, creating homogeneity within an organization that can leave diverse applicants and employees in the position of an outsider and the experience of being “othered.” “Othering is a term that not only encompasses the many expressions of prejudice on the basis of group identities, but we argue that it provides a clarifying frame that reveals a set of common processes and conditions that propagate group-based inequality and marginality.”<sup>24</sup> Instead, prioritize creating room for employees who bring a diversity of thinking, personalities, and lived experience to your organization.

One individual should never be tasked with deeming an applicant or employee as a cultural fit. Any assessment regarding cultural fit must include an open discussion about how the person may be a cultural add and if there may be “othering” and implicit bias contributing to this perception. A committee or team reviewing the cultural fit and add should in and of itself consist of a diverse group of individuals who may be able to have a lens that encompasses a breadth of backgrounds and experiences. However, we must acknowledge that today’s decision-makers in leadership are not often diverse, such that group decision-making is preferred to mitigate bias as well as efforts to increase the diversity of leadership. Additionally, sometimes a sense of a lack fit with an organizational culture might be a proxy for reasons for termination that might be related to biases.

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<sup>24</sup> John A. Powell & Stephen Menendian, *The Problem of Othering: Towards Inclusiveness and Belonging*.

## **Consequences of Not Developing Organizational Culture with Intentionality (No Culture is a Culture)**

Workplace culture drives performance, creates standards and norms, and ties to organizational values (expressed or implied). Every organization has a workplace culture. However, many organizations do not talk about, nor set standards for what that culture is and how the culture ties to the mission statement and organizational values. Organizations that are not intentional about cultivating a culture in the workplace unintentionally create a culture of “we don’t talk about it.” Similarly, organizations in our sector may have a culture of “niceness,” making it difficult for individual employees to raise specific issues or be reluctant to cause friction and conflict.

This is a culture of silence in which employees do not feel safe to share their concerns and feel pressured to conform to an unspoken set of rules set by leadership; which is disproportionality Caucasian, able-bodied, cisgender (not transgender), and heterosexual which may inadvertently create unspoken rules that have a disproportionately negative impact on others. In addition, a workplace that prioritizes “busyness,” long hours, and a competitive nature about who can take on and resolve the most cases as quickly as possible creates a workplace ripe for burn out.

Last, consider if not creating an intentional workplace culture is by default creating a “burn-out” culture or having another negative impact. Consider how to create a work environment that cultivates creativity, courage and compassion and other core values that may guide the work you do to provide services to low-income Californians and other vulnerable populations.

## **How to Consider DEI in Developing Staff Organizational Culture**

Consider intentionally shaping the workplace culture in a way that celebrates differences and shapes organizational values. This is a great opportunity to shift outdated language, and assess how the organization may have changed in a way that may not be reflected in either the mission statement or values. If your organization does not specifically utilize a racial justice lens for the work that you are engaged in, perhaps this is an opportunity to consider that change.

If your organization seeks to provide legal services and engage in policy advocacy that is responsive to the needs of low-income Californians, does your mission statement make that clear? Is community lawyering or social justice lawyering at the center of the work you do? If so, do you clearly use the words “community lawyering,” or “social justice lawyering” in the mission statement? Do you also define what this type of

lawyering looks like, feels like, and how it goes about its work? For instance, one LAAC member organization, East Bay Community Law Center's, mission statement<sup>25</sup> is:

To promote justice and build a community that is more secure, productive, healthy, and hopeful by providing:

- Legal services and policy advocacy that are responsive to the needs of low-income communities, and
- Law training that prepares future attorneys to be skilled and principled advocates who are committed to addressing the causes and conditions of racial and economic injustice and poverty

This ideally sets a standard that within the organization, the staff themselves are in a workplace environment that feels secure, productive, healthy, and has a sense of hope. Another LAAC member organization, Centro Legal de la Raza, lists<sup>26</sup> as its core values:

- Justice: Overcoming systemic barriers through collaborative action
- Empowerment: Leadership and power from within
- Compassion: Focused on community needs and voices
- Integrity: We place the dignity of our community first
- Inclusion: We embrace diverse talents and life experiences.

These core values hopefully set a standard within that organization that the staff themselves are in a workplace that embraces diverse talents and experiences, that centers collaboration and taking action when there are systemic barriers at work internally, and values holding conversations with one another with integrity, compassion, and empowerment.

Consider your organizational mission statement, core values, and whether internal workplace culture aligns with the stated values. If there isn't alignment, what would need to change to bring the workplace environment into alignment? If there are no core values, consider creating values, with staff, rather than for staff. Even the exercise of creating these values can offer staff an opportunity to coalesce around a shared vision and feel heard. Make space and time to intentionally have these conversations such as at staff meetings and retreats.

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<sup>25</sup> *Mission Statement*, East Bay Community Law Center, <https://ebclc.org/about/#:~:text=Mission,of%20low%2Dincome%20communities%2C%20and.>

<sup>26</sup> *Our Values*, Centro Legal de La Raza, <https://www.centrolegal.org/our-values/>.

## Self-Care Practices at Work

The concept of self-care has become so popularized that it is too easily dismissed as not important. However, studies show<sup>27</sup> that self-care requires attending to both personal and professional self-care. Personal self-care requires: prioritizing close relationships; getting adequate and regular sleep; participating in hobbies and recreational activities; taking vacations with regularity; engaging with one's community; maintaining whatever diet and or exercise regimen is most supportive for your physical, mental health, and emotional needs (as defined by you); and for those with a spiritual or religious practice cultivating that practice. It is important that staff learn to cultivate sufficient self-awareness to know when their needs are not being met and to address barriers to self-care.

Generally, practitioners who provide direct services to clients who are aware of their needs and take action to meet their needs are better able to provide compassionate, effective, and efficient care to their clients. This is true in the medical profession and likely no different in the legal profession, social work profession, or other profession where providing client services is involved.

Many in the non-profit sector also add a competitive element to the concept of self-care comparing the number of steps tracked on a smart device (watch or phone), how often one makes it to the gym before or after work, or moving away from compassionate conversations and conceptualizing this avoidance as self-care or "professionalism." Exempt staff in particular may compare how few breaks they take (lunch or otherwise), how many hours they work, and how exhausted they are as a badge of honor.

It is important to recognize when a positive concept is dismissed simply because it is popular, and when self-care is utilized in a way that contributes to unrecognized harm as addressed in the next section of this toolkit. Self-care is about one's relationship with oneself not comparing to others or competing with others. It is also important to move away from exhaustion as an indicator of commitment to the work in a public interest or social justice law career and as a deciding factor in who has earned the opportunity for advancement. No matter how committed an individual person is to their professional work, a lack of self-care will take a toll, including on deliverables, as discussed in the next section.

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<sup>27</sup> US National Library of Medicine National Institute on Public Health, *Caring for Oneself to Care for Others*, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3974630/>.

## **Impact on Productivity**

Staff productivity increases when staff are well-rested and have their basic physical and emotional health needs met.<sup>28</sup> While leadership may feel that they encourage their employees to take breaks, if leadership does not model this message and instead set a standard of “do as I say not as I do,” employees may follow suit. Employees may be concerned that a failure to do so could result in a perception of a lack of work ethic. This may be compounded for individuals from historically marginalized backgrounds who may be combating stereotypes about work ethic already and those who feel pressure to assimilate within a work environment.

## **Impact on Perceptions Regarding Advancement**

In addition, those interested in advancement may believe that advancement is only possible if they show their ability to “power through” that is distinct from their peers and signals they are uniquely qualified to move into a leadership position. Again, this may be compounded for individuals from historically marginalized backgrounds who already may not see themselves reflected in leadership; or may perceive that those leaders similarly situated hold themselves to this standard because it is necessary to do so because of their background.

## **Make Space For (But Don’t Force) Self-Care Practices**

It is important to make space for employees to engage with their self-care through optional organized group activities and independently. Make space for employees to start a walking group, meditation meet-up, or brown-bag lunches, perhaps outdoors. Always consider access needs and whether or not all group activities center able-bodied activities and/or otherwise leave anyone out. Forced self-care does not work in a group or otherwise. Resentment will build if employees are asked to participate in activities that are not in alignment with their personal values or that do not interest them.

Some people are introverts and others may experience severe social anxiety.<sup>29</sup> It is important to give people the space that they need to recover from being around other people for many hours every day. Perhaps the individual prefers or needs to use their breaks to meditate on their own, go on a walk in the area, read, listen to podcasts, or otherwise self-support. If you wish to have mandatory all-staff activities, be sure to provide people who may need breaks from others. Provide sufficient breaks from the all-

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<sup>28</sup> TORC, *Take Back the Lunch Break survey findings*, <https://cdntorkprod.blob.core.windows.net/docs-c5/763/185763/original/torc-takes-back-survey.pdf>.

<sup>29</sup> On disability-related language, see, e.g., *Disability Language Style Guide*, National Center on Disability and Journalism, <https://ncdj.org/style-guide/>.

staff activities to reset before they may have to interface with clients or return immediately to work. Remind staff to utilize their fifteen minute breaks as needed following any “brown bag” or other all staff activities.

## **Welcoming, Inclusive Workplaces, and Unrecognized Harm**

Creating workplaces that are welcoming and inclusive is an integral piece of fostering equitable and inclusive organizations. For instance, if your organization is not attracting candidates with disabilities or transgender, gender non-conforming, or non-binary candidates, consider if the physical office space itself is not only accessible but welcoming. Is there LGBT+ related art in the office? Are there rainbow flags, inclusive of the brown and black color stripes? Is there a transgender flag? A non-binary flag? Is there art that includes people with disabilities? Are there LGBT+ client facing staff? Are there any staff members with disabilities in client-facing positions? Are there people who speak the languages most commonly spoken by your organization’s client population in client-facing positions who help welcome clients into the space? Are people of color in client-facing positions, and positions that help welcome clients into the space? Think not just about how to use physical symbols to connote safety and a welcoming environment but also how to create a sense of community as clients, who are also our community members, enter the space.

A key part of creating inclusive workplaces is addressing unrecognized harm. There are a number of aspects to work culture that can inadvertently create unrecognized harm. We all receive messages through the media, our loved ones, and the people around us about the validity or lack of validity of particular ideas or approaches. While it is not possible to fully explore all the forms of unrecognized harm that can occur in the workplace, below is a brief exploration of several common topics that frequently come up at work that can cause unintentional harm, including: scents in the office, food and diet culture, and bathroom accessibility. Consider if your organization will be able to attract and retain staff who have access needs if your physical office space is inaccessible.

Addressing unrecognized harm is a key part of creating more welcoming spaces that are inclusive to people from many different backgrounds.

### **Scent-conscious and scent-free office environments**

Due to allergies, asthma, or other chemical sensitivities, some individuals are negatively impacted by scents. The negative impact may range and may include flu-like symptoms, difficulty breathing, migraines, and other symptoms. It is extraordinarily emotionally harmful to deny a colleague's experience if they indicate that they are “scent-sensitive” or otherwise negatively impacted by scents, or “chemical sensitivity.” For example, stating that the physical response is “not real” and refusing to adapt the workplace

environment can lead to lower productivity, more staff out for sick time because of a scent condition in the office, and frustration that can create a retention issue for someone whose need is disregarded and/or made fun of by others.

In response to this concern many non-profits, including legal aid organizations, are creating “low-scent,” “scent-conscious,” or entirely “scent-free” office policies. The U.S. Center for Disease Control and Prevention (CDC) has been using a fragrance-free policy as a part of its “Indoor Environmental Quality Policy” for more than a decade (since 2009).<sup>30</sup> The CDC defines “Indoor Environmental Quality (IEQ)” as the quality of a building’s environment in relation to the impact on the health and wellbeing of the building’s occupants.

Scents and fragrances include “natural” scents and essential oils. In order to be scent-free, recommendations include the use of fragrance-free:

- laundry detergent and laundry softeners
- soap, shampoo, hair products
- lotion, other personal products
- cleaning products in the office
- candles (try lighting alternatives that also are not a fire hazard and do not use incense, reed diffusers, essential oil diffusers, etc.)
- odor removal products for bathrooms (no scented plug-ins or air fresheners)

This policy should also be communicated to candidates interviewing for a job position, as no candidate would want to inadvertently trigger a negative reaction in one of the interviewers.

If an individual is experiencing symptoms in the office environment that can be readily identified as activating their symptoms the items should be removed. If the environment is already low-scent or fragrance-free and no specific scent can be identified as causing an issue, the employer may offer other reasonable accommodations, at no cost to the employee, such as an air purifier at the individual’s work station, the ability to have outdoor meetings, or the ability to work remotely as necessary.

### **Organizational culture on food and diet**

Every office has a different culture around food and sharing time together during meals. Some organizations use large conference rooms to host informal daily lunches. There may be an unspoken expectation that all staff attend these lunches, and what may be

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<sup>30</sup> CDC, *Indoor Environmental Quality*, <https://www.cdc.gov/niosh/topics/indoorenv/default.html>.

meant as a fun time to get together in an informal way may become a dreaded expectation that feels necessary for advancement. It is wonderful to provide opportunities to have “brown-bags” or periodic get-togethers for meals. It is also important to be careful to schedule these get-togethers at a frequency that works well for people of all personality types (extroverts and introverts). Some people prefer to eat on their own, go for a walk, meditate, make a necessary personal call, or perform other activities.

When providing food to staff, offer a variety of food types that meet dietary restrictions (vegan, vegetarian, gluten-free, severe celiac allergy, sugar-free). Remember, many people have complex and negative relationships to food. Avoid conversations that center dieting, and weight loss, especially in response to eating organizational provided food (e.g. donuts, pastries, cookies). If staff feel pressured to bring in “treats” for one another, and there is a silent culture of having a rotation in which it non-consensually becomes someone’s “turn” to bring in pastries, what may have started as a community building nicety may turn into a dreaded obligation that fuels resentment. Make sure that staff understand the importance of not commenting on one another’s food choices, not using self-deprecating language around eating, and not pressuring others to “walk-off” or otherwise group exercise after a shared meal, or box of treats arrives. If someone says “no” to a treat that is not an opportunity to pressure them into taking a treat anyway. If any staff engage in these behaviors, leadership should intervene and privately explain how this may cause harm to others and how to better support their co-workers.

More than 30 million people in the United States are impacted by “disordered eating” and “eating disorders.”<sup>31</sup> You never know when a colleague or one of their loved ones is impacted. Avoid characterizing a specific kind of food as “bad” or “good” or characterizing your food choices or the choices of others as “bad” or “good.” Avoid statements about “making up” for your food related decisions such as “having” to exercise because of a food choice. Instead, focus on the types of food you enjoy eating, recipes you may wish to exchange with others, or talking about the cultural importance based on your own background of a specific food in your lunch box if you wish to share those details. Do not push others to share the above and pay attention to if there are social cues that indicate discomfort.

Last, be sure to create paid, “on-the-clock” opportunities for staff to get to know one another so that their breaks and alone time are respected. Consider “get to know you” activities that aren’t centered around food. Make sure that the “get to know you” activities are up to date to reflect current best practices and avoid stereotypes or jokes at the expense of one another. Be sure to read through game materials and consider ways a fun game could go awry if staff have not all had baseline implicit bias training.

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<sup>31</sup> National Eating Disorders Assoc., <https://www.nationaleatingdisorders.org/about-us/our-work>.

As leadership, if you find you have a preference for one employee who may be eligible for advancement over another, and you spend far more time with one than the other, make opportunities to get to know other staff. Be careful that advancement decisions are not rooted in personal relationship building, or remove yourself from the advancement process if you think you may have a bias in strong favor of one person over another. Talk to Human Resources and or legal counsel about how to develop a standardized process for advancement that helps to counter any bias.

### **Bathroom Access for Transgender and Gender Non-Conforming Individuals**

Many office spaces offer only bathrooms which are “binary and gendered” meaning only “men’s” and “women’s” bathrooms. In California, single stall bathrooms are to be labeled as “all gender” sometimes also referred to as “gender-neutral” meaning gender identification does not prescribe who can use the bathroom.<sup>32</sup> Adapt single stall restrooms accordingly with appropriate signage.

Do not have staff or security for the building serve as a “gatekeeper” for bathroom access. Do not have the keys kept out of sight, and out of reach, or require a sign-out for a restroom key. Do not have a “gatekeeper” decide which gender key to offer staff or visitors (including clients) based on visual appearance. Do not color code the bathroom keys in pink and blue. If there is a password to enter the bathroom, as mandated by building management, attempt to have the code be the same for all of the bathrooms. Post the codes in spaces that make entry readily available.

Make this clear with signs. For instance a sign that states, “(organization name) strives to be an inclusive organization. You are welcome to use the bathroom that best matches your gender identity, and/or is most comfortable for you to use. Single stall restrooms are available (clear directions). We trust each person to make the decision that is best for their own gender identity and needs. Please presume anyone in a bathroom is in fact in the right place.”

If your organization has an entire floor to itself, attempt to negotiate with management to have bathrooms be kept unlocked altogether. If your organization owns a building, consider design changes to the bathroom if it is financially feasible to do so. Consider ways to make the bathrooms more inclusive instead of locked and restrictive. Consider changing the shared bathroom spaces to “all-gender” bathrooms where there is sufficient privacy to support the needs of staff (such as no urinals in the bathrooms, stalls with floor to ceiling doors, and a shared sink area). There are many examples of this on a large and small scale from the Whitney Museum in New York to local coffee

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<sup>32</sup> See, e.g., AB 1732, [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB1732](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1732).

shops such as Peet's Coffee. Encourage staff uncomfortable with using "all gender" bathrooms to use the single stall options.

### **Accessibility/disability considerations (beyond ADA compliance/understanding compliance)**

In addition, consider specific accessibility considerations when addressing locked bathrooms. Not only are locked bathrooms an issue for transgender and gender non-conforming individuals, there are access considerations impacting persons with disabilities. It is important to remember that there are also transgender and gender non-conforming people with disabilities who are impacted in multiple ways by bathroom access issues. Locked bathrooms restrict access for people with disabilities.

It is imperative to not only implement ADA standards<sup>33</sup> and to be in compliance with California Building Code bathrooms,<sup>34</sup> but conduct a self-audit that includes feedback from employees about access needs.

### **Executive Leadership & Management**

Management style and skillset may differ and it is important to develop a robust managerial culture that integrates a focus on DEI and racial justice. While the interview process gives the hiring committee an opportunity to familiarize themselves with the individual's past experience, it is important to not skip thorough onboarding for management. Organizations are better able to set these individuals up for success by having some written guidance for management about how to meet expectations. While many managers will learn crucial skills on the job, and not every situation can be written down, it is important to optimize the operations of the organization. Many small organizations find that as their organization grows, if there are no manuals and little written guidance, there are big growing pains as the organization scales up in size.

If your organization has a managerial training, offered by an outside program, be sure to send new managerial hires to those programs right away. All leaders should receive similar training from the outset. Training should include: communication skills, cultural humility and implicit bias, guidance on tracking and meeting contract deliverables, management style, and project management tools.

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<sup>33</sup> 2010 ADA Standards for Accessible Design, <https://www.ada.gov/regs2010/2010ADAStandards/2010ADAStandards.pdf>.

<sup>34</sup> California Building Standards Commission, <https://www.dgs.ca.gov/BSC>.

LAAC offers support to new executive directors and maintains resources for new executive directors.<sup>35</sup> LAAC also helps executive directors consider specific training and mentorship that are specific to topics such as diversity, equity, and inclusion work. If you are in the Bay Area, consider participating in the Coalition for Cultural Equity In Law (CCEIL),<sup>36</sup> and if you are located elsewhere, consider starting a similar collaboration in your area.

### **Management style**

It is imperative that leadership provide clear expectations; appropriate levels of support for success; and honest and helpful feedback in order to support successful work performance.

While many people have categorized and written about different management style “types,” it is important to remain flexible and have a range of tools, each of which may be important in different circumstances.

### **Setting expectations**

It is imperative that leadership set clear expectations, reevaluate those expectations, and review the expectations for reasonableness. Because perfectionism pervades dominant culture and institutions of higher education such as law schools, it is difficult to not perpetuate perfectionism.<sup>37</sup> There is also a balance where organizations must meet minimum expectations when writing publications, communicating with external partners and funders, and submitting amicus briefs to a state or federal court, which LAAC does. Leadership must make clear what exactly the standards are, when, and why. The standards must also take into account an individual staff member’s educational level and the amount of supervision offered to the staff member in question.

It is nearly impossible for unclear expectations to be met, and unmet expectations result in frustration, anger, sadness, emotional fatigue, burn-out, and retention challenges. When expectations are clear, the staff - and by extension, the organization and clients - thrive. People are able to be proud of their accomplishments, and feel an authentic and deep connection to the work that they produce. Providing people with opportunities to learn and grow in the work is vital for professional growth. It is also important to

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<sup>35</sup> See *Resources for New Executive Directors*, <https://www.laaonline.org/coordination/resources-for-new-executive-directors/>.

<sup>36</sup> Email [ideal@LAAOnline.org](mailto:ideal@LAAOnline.org) for more information. CCEIL is a group of legal aid executive directors committed to internal DEI efforts that works with paid consultants. CCEIL has gone through a number of iterations and will soon have a plan for 2021.

<sup>37</sup> See, e.g., Tema Okun, white supremacy culture, [https://www.dismantlingracism.org/uploads/4/3/5/7/43579015/okun\\_-\\_white\\_sup\\_culture.pdf](https://www.dismantlingracism.org/uploads/4/3/5/7/43579015/okun_-_white_sup_culture.pdf).

consider hiring people without formal college or graduate degrees which means being committed to having the necessary support to make sure they are able to complete assignments according to expectations. Additionally, even those with a Bachelor's degree or graduate degree may need more support than leadership initially realizes.

## **Communication**

Communication is necessary to set expectations. We all have different communication styles, and ideas about the “right” and “wrong” way to communicate. It is important for management to assess the different types of communication styles of their staff, and to utilize tools such as [StrengthFinder](#) or [The Four Tendencies](#), to help staff determine their personality types, understand how that shows up at work, and learn skills for addressing the ways different styles interact with one another. Once everyone learns how everyone else wants and needs to be communicated with, and if everyone is willing to honor those wants and needs, then miscommunication is much less likely.

It is impossible to communicate perfectly each time, so it is important to learn conflict resolution skills when miscommunications occur and accountability processes to heal interpersonal wounding. The willingness of everyone, especially management, to say “thank you for the feedback,” “I’m sorry,” “I was wrong,” or “I could have done X thing better or different,” the more likely staff are to model what they see from leadership and avoid gossip, clique behavior, and other behavior that deteriorates organizational health.

## **Accountability**

Accountability means many different things to many different people. It is important to develop accountability models within your organization that utilizes community agreements. Accountability agreements include what to do when conflicts arise, who can mediate conflict, what the potential resolutions are, and what to do when people cannot reach a mutual agreement. There should be some mechanism for acknowledging everyone’s experiences and truths, and for people to acknowledge where they can take responsibility for causing harm.

When people from historically marginalized backgrounds name potential implicit bias, it is important that others not dismiss this feedback, not center their feelings in the conversation, and focus on their impact rather than their positive intention. Doing otherwise can cause more harm than the initial offense. Anyone who has caused harm must be willing to make commitments towards doing better and different moving forward. At times, it may also be appropriate for leadership to make a statement and open up a conversation to field questions from all staff if a conflict occurred in front of many people and/or has had a negative impact on all staff.

Rather than pretending something did not happen, which is inherently a mechanism that upholds a cultural practice of silencing, the appropriate balm for this ailment is transparency. Leadership should consult with Human Resources and legal counsel to determine how to balance accountability practices with concerns related to liability.<sup>38</sup> It is also important that leadership does not allow fear of potential liability to cause leadership to avoid transparency altogether. Transparency can in fact help prevent employees from leaving, from becoming disgruntled, and from taking any negative action, including legal action, simply to receive an apology when it is merited.

It is important the Human Resources staff not be weaponized in this process. Staff must feel and be safe from retaliation in order to encourage them to report any experienced instances of discrimination and unintentional negative interactions which may be rooted in implicit bias. Some legal organizations have formed unions, in part to develop additional protections around issues such as these.

### **Preventing harm to those without managerial power and authority: Support and expectations for non-managerial staff**

Project management should be a part of the onboarding process so that all staff have shared language, and a shared understanding of how to handle every aspect of project management at your organization. There should be no presumption that “everyone knows how” to do something, or can figure out how to do something in a way that will meet managerial expectations. It is also important for management to acknowledge that people have different strengths, and while some people may intuitively be better at figuring out how to do things the way management prefers with little to no direction, there is value in having staff who have other and different strengths and are more likely to create innovation and bring fresh ideas because the way they intuitively think is in fact different from management.

Time pressures should not be at the expense of people who are creative thinkers, and who may discover new possibilities for funding, or ways to improve existing systems to save time, money, or emotional energy by thinking things through in a new and different way. Make room to be able to identify staff who may be creative thinkers, and give them permission to engage their creative thinking, even in small bursts. Someone dancing in their office may be about to come up with a new funding stream, discover a new way to deliver services, or develop an idea for a community partnership with another organization. Expressive joy at work deserves support and space to grow rather than judgments about laziness or “goofing off.”

Innovation and creativity should be given an outlet, rewarded, and praised with positive feedback, rather than being seen as an inconvenience or waste of time. Some staff may

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<sup>38</sup> Ejeris Dixon, *Creating A Transformative Justice Informed Sexual Harassment Protocol*, <https://www.surveymonkey.com/r/K7Z5L5G>.

find their best work-related ideas come to them while on a walk, listening to music, dancing, taking a bike ride, or while engaged in other outlets. Make space for on-the-clock time for staff to have room to think creatively, though be sure this space is time-bound as staff who are creative thinkers also need clear bounds to make sure that they meet minimum expectations and are not so excited by a new idea that they don't meet their contract deliverables or complete a project on time because they are distracted. Communicating the need to maintain creative balance with staff early and often is important.

Leadership should ensure that teams include people with a variety of work styles, and those with strengths around meeting time expectations and deliverables should be delegated those responsibilities. Those with creative thinking should have time carved out for them to specifically engage with the type of thinking in which they excel, and which likely brings them the most fulfillment in their role (which supports retention). These staff members should be given additional training and support to improve their skills around concrete deadlines and tasks. Those staff who are exceptional at deadlines, calendaring, and intuitive thinking should also be praised for their strengths, and be given some opportunity to learn more about thinking creatively.

It is important for management to recognize and acknowledge aloud to the staff that they supervise that power dynamics exist, are real, and are silently impacting the work place at all times. When an executive director makes an ask, typically staff will drop whatever else they may be doing to meet that ask. This deference to authority is learned and is to some extent necessary to be eligible for advancement and be viewed as a "good" and "hard worker." Management should be clear about their expectations for the time frame staff have to respond to them, the time frame to complete requests, and should explicitly avoid creating a false sense of urgency.<sup>39</sup>

Management should provide specific guidance as to how to complete a task, including basic written guidance so that staff are set up for success. It is a waste of everyone's time and emotional bandwidth to have staff operate from the presumption that a task is intuitive, then make mistakes, fail to not meet minimum managerial expectations, and have to start over again. If management presents that it doesn't matter how the person goes about completing a project and that whatever is accomplished as long as it is accomplished is "good enough," then the product must in fact be considered good enough. Otherwise, management should take the time to talk through the project and provide guidance of how to complete the task correctly, and at a minimum standard. This is especially important for junior staff, who may be in their first professional office job and attorneys who recently graduated from law school. Spending fifteen minutes up front can avoid significant time lost to miscommunication, headaches, and resentment in the long run.

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<sup>39</sup> See, e.g., Tema Okun, white supremacy culture, [https://www.dismantlingracism.org/uploads/4/3/5/7/43579015/okun\\_-\\_white\\_sup\\_culture.pdf](https://www.dismantlingracism.org/uploads/4/3/5/7/43579015/okun_-_white_sup_culture.pdf).

## **Organizational Structure**

The structure of an organization also has an important impact on the workplace dynamic and creating a supportive workplace for staff. By having intentional conversations about organizational structure and decision making, organizations can make staff feel more invested and heard in their organizations, resulting in dynamic, mobile organizations. Many nonprofits are structured in a way that is hierarchical and oriented toward top-down decision making, as opposed to collective-based models where decisions are made democratically between all staff. Unionization offers a middle-ground wherein non-managers have power because they are unified in requests to management.

## **Organizational Relationship Building**

Internal power dynamics are an essential consideration in the work towards building more equitable organizations. The communities we live in and the organizations we work for are all deeply shaped by histories of power and violence within this country. It is important to keep in mind that everyone within an organization may have a different learning experience pertaining to this history. Do not make assumptions that everyone has a shared understanding or shared opinions of that history, even if generally your organization has many like-minded individuals in terms of a commitment to providing legal services to low-income Californians and vulnerable populations.

Some employees may view the workplace as a microcosm within the larger macrocosm of the history of this country. As a result, these employees may view issues that arise in the workplace as connected to larger systemic issues related to implicit bias and working across cultural differences. However, for others, workplace dynamics may be viewed as individual personalities insulated from this larger historical context. This difference in view in and of itself can create interpersonal conflict and set a tone within the workplace.

## **Power dynamics**

To work towards more equitable and accountable organizations, it is necessary to understand the way power influences the relationships we have with our coworkers. It is specifically important to have training regarding the impact of both the larger historical context, and systemic impact and how this arises in interpersonal relationships we have with our coworkers. In addition, it is imperative that organizations develop an understanding of power dynamics generally which are compounded by systemic factors.

Power dynamics can be formal, created and informed by position and role that individuals hold in an organization, such as the power dynamic between an executive

director and a work-study student. Power dynamics can also be influenced by identity and how different identities are awarded certain rights and power in society (white, able-bodied, cisgender, heterosexual are all identities and experiences that are granted more power than others).

Finally, beyond recognizing the power dynamics inherent to the identities and positions that people hold, it is also vital to recognize the ways in which office practices reinforce undesirable power dynamics. It is essential to include all staff in relationship-building activities, no matter their position. Also, there are a number of important vectors and dynamics in a legal aid office, such as peer-to-peer interactions between lawyers; interactions between lawyers and other advocates (e.g. paralegals) as well as “administrative staff”; and peer-to-peer interactions between other advocates and administrative staff. It is critical that other advocates not be labeled as “non-lawyers,” unless the distinction is necessary to differentiate between requirements of such positions, which reinforces a hierarchy that could be unproductive and unhelpful for ensuring an inclusive, positive work environment for all team members.

## **Work Performance**

As discussed above, it is imperative that leadership provide clear expectations, appropriate levels of support for success, and honest and helpful feedback in order to support successful work performance. If your organization does not have a performance evaluation process, work with staff to develop a process. Depending on the organizational structure (hierarchy, collective, unionized, etc.) different organizations may have different needs around the type of performance evaluation process.

Many organizations offer quarterly evaluations where staff engage in a review of all objectives for their role with their direct supervisor. The year-end review involves the staff, their manager, and someone in a directing role. No matter the format or frequency of the evaluation, no staff member should ever be surprised by management’s perception of their work performance whether it is their first review upon hire, a quarterly review, or end-of year review. Management must have open and frequent communication with staff about what support the staff member may need to be successful.

Some organizations provide improvement plans while others find this may decrease morale for the employee. Each organization must assess their own work culture, and the individual needs of staff and Human Resources recommendations in deciding whether or not to use official improvement plans. If an employee’s work performance is of such concern that they are at risk of termination, management needs to intervene as soon as the concern arises.

Leadership must cultivate an awareness around any implicit bias they may hold that could impact how they evaluate employees’ performance and who and how they

provide opportunities for professional development and advancement. If leadership has not yet taken the tests available at [Project Implicit](#), founded by scientists from Harvard University, University of Virginia, and University of Washington, these tests provide an opportunity for leadership to privately assess their potential biases.

Organizations can combat bias by creating a standardized plan where all employees are given the same opportunities for professional development such as a specific number of outside training and conferences they can attend each year. This may help alleviate some affinity bias wherein leadership selects people more like themselves, in any number of categories or social identities, rather than others for professional development opportunities.

Work performance is intrinsically connected to professional development. The Recruitment and Retention Study in 2010 found “increased opportunities for advancement within the legal aid organizations should be developed, as well as implementation of professional development plans that help attorneys take advantage of these opportunities.” The 2019 report similarly recommended:

Diversifying legal aid leadership across race, ethnicity, gender, sexual orientation and disability should continue to be a high priority. Legal aid organizations should establish clear pathways for individuals to develop the skills necessary for leadership and management positions and actively encourage attorneys who would make the pool of qualified candidates for these positions more diverse to take advantage of these pathways.

Creating both short-term and long-term goals around these topics helps to demonstrate to the employee that your organization is committed to them staying for the long term. In the 2010 report, following financial reasons, the second top reason for attorneys to decide to leave legal aid was a lack of opportunities for professional growth or advancement. In 2019’s report, this was the same: low salaries and lack of advancement were the top two reasons cited for leaving. In order to increase retention, legal aid organizations must prioritize training that meets the professional development goals of staff. Staff who have a plan for advancement, are naturally more invested in remaining at the organization.

Specifically address what the potential for growth is in an individual’s role at an organization from the outset. Determine if a new hire has an interest in a managerial role. Have a collaborative conversation around what specific training they need and want in order to successfully transition into a role with more responsibility. Provide timeframes for advancement so that staff are not left to guess at what might be possible. Give clear guidance with metrics for what they must demonstrate to be considered for advancement. If someone is not selected for a promotion, make space for a conversation about when and how they may advance in the future. Help prevent

loss of staff by way of them simply giving up on the ability to advance and earn a higher salary.

### **Integrating implicit bias work into performance evaluations**

Some organizations have integrated implicit bias work into the professional development aspects of all employee evaluations. This demonstrates the commitment of the organization to address DEI concerns. Some ways to adapt performance evaluations to include DEI topics are to note if the employees had demonstrated a commitment to actively participate in training offered by the organization; if the employee pursues non-mandatory DEI opportunities; if the employee demonstrates an understanding of the prohibition of retaliation against employees who have filed complaints or made protected disclosures; demonstrates a commitment to contributing to recruitment and retention of a diverse workforce.

### **Setting goals for professional development related to implicit bias**

Legal aid attorneys must complete 25 hours of Minimum Continuing Legal Education (MCLE) every three years and file a report with the State Bar confirming completion. These credits require at least four (4) hours of legal ethics, one (1) hour of competence, and one (1) hour of the recognition of bias in the legal profession and society. The rest of professional development is left up to the individual and their employer. It is important to create concrete professional development plans with each staff member.

Attorneys are asked to start work at an organization that often does not have a model for how to provide feedback; without expectations for how to communicate with others; nor a framework for what to do when conflicts arise. Many have no organization-approved way to address microaggressions that happen in the workplace.

Employees should not be held to a standard in which they never make mistakes with one another. Instead, performance and professional development should be centered around how the employee responds when they are given feedback about their mistakes including in relation to implicit bias. Creating a standard in which staff are able to apologize, not repeat the same words or behavior, and repair relationships with colleagues helps to support overall organizational health.

## **Leveraging continuing legal education through purposeful selection of MCLE training that covers implicit bias, diversity, equity and inclusion work, communication strategies, and self-care strategies**

Professional development should not just include the minimum requirement of one (1) hour of continuing legal education related to elimination of bias. One (1) hour is insufficient to address the root causes of implicit bias; and how it may manifest in the workplace both internally and externally. In addition, organizations and employees should seek out training that is in person in addition to the use of online training.

Seek out training opportunities that have activities that encourage participants to actively engage with the material through adult education models (working individually on thought provoking topics, in pairs, and in small groups in addition to lecture). Find trainers that avoid lecture “talk-at” styles and seek out trainers with “engage with” styles. Trainers should be authentic, dynamic, and engaging. Trainers should have lived experience related to the topics they offer education on rather than providing education “about” others. Ideally, trainers from multiple unique perspectives are able to offer training as co-facilitators to offer a multiplicity of perspectives during a training.

Many organizations find it helpful to have co-facilitators provide affinity spaces to provide safer and braver spaces for people from shared social identity groups to work together on specific topics. For instance, there may be a “person of color” affinity group and “Caucasian/White” affinity group. Staff may begin in an affinity group, return to the full large group, and then return to the affinity group for action item creation. Staff may also begin in a large group, go into break out affinity group sessions, and perhaps return to the large group. Consider if your staff express an interest in affinity group sessions. Note that these conversations should be supported and facilitated by outside consultants.

Determine what opportunities may be available to support all staff both together and in break out groups and affinity sessions. Create a plan with staff and trainers that relate to this topic. Avoiding talking about the need for affinity groups may create undesirable in-the-moment consequences at training, which would require harm repair, costing the organization emotional energy, time, and money to address. Any harm that occurs which remains unaddressed may lead to ongoing resentment and deteriorate educational health. Being proactive sets everyone up for success, including the facilitator who is often entering an unknown ecosystem.

If there is resistance to affinity groups, or your organization is not large enough to make affinity break-outs practical, make space for conversations about this to determine if the comfort and safety of a particular social identity group is being prioritized over the comfort and safety of a historically marginalized social identity group. For instance, discuss with LGBT+ community members before asking them to join a basic LGBT+ training where many heterosexual staff may be present and have questions that LGBT+

staff may find difficult to listen to or have explored in their presence. Leadership is best served by considering how to avoid such a potential misstep rather than ruling out the use of affinity groups all together to avoid uncomfortable discussions which may surface in affinity group spaces.

## **Advancement**

### **Funding for New Hires and Transparent conversation and expectation setting upon hiring**

It is incredibly important to regularly assess the pay scale for the organization. As described in prior sections, low pay is the number one reason attorneys leave legal aid according to LAAC's 2019 Recruitment and Retention report (see [Justice at Risk](#)). This likely impacts other legal aid staff who are not attorneys as well. If competitive compensation is not available, organizations lose key staff with the institutional knowledge and skill sets that support vital services for low-income Californians. Leadership should advocate with the board to increase pay scales whenever it is fiscally possible and responsible to do so. In addition, when hiring new staff, leadership should consider hiring at the top rather than the bottom or middle of the payscale. This may require adjusting current staff member pay to reflect increases in the pay scale, and to not create resentment amongst existing staff and new hires. Lastly, as a way to sustainably raise salaries, organizations should be increasing the cost of an FTE when applying or re-applying for funding.

It is important to make clear what is and is not possible in terms of growth at the organization over time. While it is fair to state that the organization does not currently have funding for a more senior role or higher pay, it is important to explain what might be possible. This means transparency in terms of the current pay scale for all titles/roles, and the availability of potential future titles and pay. It is also important for leadership to commit to having regular conversations with staff whenever these conversations occur amongst leadership and/or the board.

If staff does not know that leadership is advocating on their behalf with the board for pay increases, they may feel like leadership is not supporting them, does not care, or is not prioritizing the issue. If the board cannot approve a change because it is not fiscally responsible at the time, it is important to go over the numbers with staff and explain why. It may be helpful to integrate these conversations into staff meetings for the sake of transparency. Consider also having these conversations during individual reviews in which an employee may be hoping for a title change or salary increase.

## **Temporary funding vs. permanent funding**

If a job is funded for a limited amount of time, organizations should consider what the minimum commitment is that they can make to the staff member. A one-year minimum commitment is helpful, and in some instances necessary, for staff to be able to commit to the organization. In addition, being a “temporary” staff member can cause one to feel less valued than other staff, create resentment, and ultimately cause the loss of staff who may have received significant training. This could be in part due to resentment and anxiety, and in part because they felt it necessary to seek employment from an organization that could make the commitment they needed to move forward with their life plans.

There may be a disproportionately negative impact for people from historically marginalized backgrounds who historically are paid less, given less opportunities for advancement, and viewed as disposable and temporary. That person will take the skills built during their temporary employment elsewhere, rather than continuing to use them and build upon them at the organization that provided the original opportunity to build the skill set in the first place.

## **Professional development plan for advancement**

If staff will need additional training to advance, it is important to make clear ideally from the start of the hiring process what that staff will need to do to advance. There should be clear milestones and timeframes for advancement rather than a general or vague description of leadership determining that they are ready. Readiness should be described in quantitative ways. If there are specific training programs for the staff to consider, such as an Executive Fellowship, leadership should discuss and support the process for staff moving that process forward. Make sure that staff are aware of application deadlines for these opportunities to avoid deep disappointment and long wait times. Having a plan for advancement supports retention, so that staff do not leave simply for a title change and pay increase that would have been possible from your organization. It is important to pay attention to providing support to everyone at the organization, including people from historically marginalized backgrounds.

## **Loss of Staff**

There is possibly nothing more devastating for an employee and difficult for leadership than termination of an employee who has no idea they are at risk of termination. There is no reason that anyone should be taken by complete surprise that they are at risk of termination. If leadership does not see the potential for a termination issue, there has been a failure of oversight and communication on multiple levels.

In addition, if someone is terminated suddenly, it will impact the morale of the organization. Because of Human Resources and liability-related considerations leadership may be reluctant, and indeed must be careful about what is said to the rest of staff if an employee leaves suddenly. However, failure to acknowledge their departure at all is likely to damage organizational health and employee trust of leadership. When one employee leaves involuntarily, there is a risk that others will follow voluntarily, and at times in solidarity with their allegiance to the terminated employee. Others cannot afford to leave, and may instead find themselves resentful and fearful and looking for the first paid opportunity elsewhere. This can result in organization-hopping by employees, where attorneys move to new organizations every few years in a desperate attempt to find a place that feels supportive and healthy. The legal aid community is small and people are friends who maintain friendships when some people leave an organization and others do not.

### **Equity considerations when staff leave**

Historically, people of color are given less of a margin for error, and are punished with more severity than white people. Organizations should make sure that their policies and practices related to termination are executed utilizing equitable principles and practices and considering if everyone would in fact be treated the same under the circumstances. It is important for leadership considering a termination decision to make sure that everyone in the group does not share the same social identities, and specifically that if a group of all white people are considering terminating someone from a historically marginalized background that they look carefully at any potential bias that may be at work. Have other employees made similar mistakes and not been terminated? Would they terminate other staff who made the same mistake? Was there sufficient support and oversight, such that the person had an opportunity to avoid making the mistake? If termination is necessary, the organization should consider how to terminate the person with as much dignity and grace as possible.

Consider having a meeting when the rest of the staff are not in the office, such as an after-hours meeting. Give the person sufficient time to gather their belongings, and save personal electronic files that may be sensitive. Provide a clean USB they can keep for electronic files, have a cart available for moving personal possessions, designate a person to help them carry their personal possessions if necessary. Make clear what, if anything, the employer would say if they were contacted by a future employer including legal limitations on what they can say. Consider if a severance of any kind is possible to offer. Make an effort to not terminate a person such that their health benefits immediately terminate. Not everyone can afford COBRA, and some people are on life-saving medication that is too expensive to be purchased out of pocket. Treating people with dignity upon exit also supports reducing potential liability.

Finally, whenever possible, consider if an improvement plan may be available. Some organizations prefer to not offer improvement plans, as it may cause staff significant

anxiety, but in other contexts, it may be beneficial if they would otherwise lose their job. Job loss is devastating, especially for people from historically marginalized backgrounds who combat imposter syndrome<sup>40</sup> disproportionately<sup>41</sup> in comparison to white, male, and cisgender peers. If the person does not have inherited wealth, familial support, or the support of a romantic partner to support their transition, job loss can be emotionally and financially devastating. If someone does not have several months of rent saved, the stress of having to find immediate employment elsewhere, perhaps having to move to reduce costs, and/or having to access unemployment and public benefits, is likely to cause emotional harm.

## **Orienting and Sustaining a Board Committee**

### **Importance of Diversity on the Board**

A board that does not reflect the communities that an organization serves fundamentally risks moving forward strategies and policies contrary to the mission of the organization. For instance, LAAC's mission statement reads:

*The Legal Aid Association of California (LAAC), the statewide membership organization of legal services nonprofits, serves and strengthens its members through advocacy, training, and support in their efforts to provide critical legal assistance to low-income Californians and ensure equal access to justice.*

If there are no board members with personal, lived experience as a low-income Californian, it is likely that there is no one with a lens for that direct experience to support conversations around whether the efforts of the organization actually results in serving and strengthening the ways its attorneys provide legal assistance. If there are no people of color serving on the board, the likelihood is high that the board is missing crucial perspectives. It is critical for organizations and boards to not assume that the efforts of a homogenous group are actually providing services, and creating policies that are what the populations they serve want and need.

Moreover, policies that impact organizational staff will likely not meet their needs if no one on the board reflects the diversity of the staff (attorneys and all other staff). Since

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<sup>40</sup> See, e.g., Abigail Abrams, Yes, Impostor Syndrome Is Real. Here's How to Deal With It

<https://time.com/5312483/how-to-deal-with-impostor-syndrome/>

<sup>41</sup> See, e.g., Sheryl Nance-Nash, Why imposter syndrome hits women and women of color harder <https://www.bbc.com/worklife/article/20200724-why-imposter-syndrome-hits-women-and-women-of-colour-harder>

boards are responsible for reviewing and approving the organization's internal policies, it is crucial that the board is able to consider the many nuanced factors that impact a diverse staff. For example, if there are no board members with disabilities, they may not consider, or may dismiss, a proposed policy related to maintaining a scent-free office. This may impact not only a staff member's ability to work in an office, but also a client's ability to visit an office and receive services.

In addition, a board subcommittee can only be as diverse as the larger body itself. A DEI subcommittee cannot be diverse when the overall board is not diverse. A DEI subcommittee should ideally reflect the population the organization serves and the larger landscape of the population of California.

Additionally, with the relative diversity of legal professionals within legal aid (see LAAC's 2019 Recruitment & Retention Study *Justice at Risk*), there is the availability (and necessity) to create diverse boards. If the board is not already diverse, the board should create a strategic plan to recreate the board composition over a specific timeframe to better reflect the organization's values and comparative diversity of legal aid organizations.

It is considered best practice to maintain a well-rounded board with people from as many backgrounds and experiences as possible. This may require people from historically privileged backgrounds, especially White, cisgender (meaning not transgender), straight/heterosexual men, to consider stepping down from board service to make space for others. It is important to consider all aspects of social identities when considering the diversity of the board. That means looking beyond gender and race to considerations such as dis/ability, socio-economic status (historical and current), age, national origin, caregiver status (of children, elders, made family, etc.), and many more factors.

Further, when a board member's term of service ends, it is an opportunity to reach out to minority bar associations, colleagues from other organizations, people from historically marginalized backgrounds, and those who are interested in engaging in board service because of their interest in becoming a directing attorney or executive director. Because board service can make a staff attorney a more desirable candidate within their own organization, or at another organization hiring for senior attorneys or directing attorneys, this is an opportunity to help support the advancement of attorneys from historically marginalized communities.

## **Including Individuals from Outside of the County for Board Service to Diversify a Committee**

For organizations which geographically are within very homogenous communities, it may be necessary to consider bringing in board members from other geographical locations to help support the diversity of the board and diversity of perspectives. Some boards restrict eligibility of membership to the county in which the organization is located, which greatly restricts the ability to diversify the board. Consider changing policies such as these in the interest of advancing the organizational mission and values. If there is a specific concern pertaining to bringing on board members from outside of the immediate region, be sure, as a group, to name those reasons and address them directly. Determine whether the existing fears which appeared to necessitate such policies are in support or against interests of equity and justice. Ask if there is another way to assure that the named fears are not realized.

Because LAAC is a statewide membership organization, we specifically desire having our board members come from different regions of the state (Northern California, Central California, and Southern California). We also have board members who began their careers with the support of the Dan Bradley Fellowship.<sup>42</sup>

## **Forming a DEI Committee**

If the organization's board has not yet decided whether or not to form a committee, start by adding this topic to a full board agenda to gauge interest and determine potential difficulties. Consider if your organization would like the committee to be formed by any board members who wish to provide service, or by application and what implications that might have on the diversity, equity, and inclusion as well as composition of the committee. Some boards may be reluctant to form such a committee because there may be a knowledge gap regarding the value of such a committee. Therefore, these conversations may not be easy, if not challenging.

### **Forming a Committee by Volunteering or Application**

Committees can be formed by volunteers or by members selected by application, contingent on the organization's bylaws concerning committee formation. Consider if there is any limitation on the number of board members that can serve on this committee. In addition, consider if organizational staff may also participate on a board committee, what their role would be, and what if any outside participation would be permissible.

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<sup>42</sup> Dan Bradley Fellowship, <https://www.laaconline.org/award/dan-bradley-fellowship/>.

## **Participation Policy (Board members, organizational staff - which ones, outside participation)**

Committees should set a specific policy regarding the participation of other individuals beyond core members of the committee. Such policy could consider questions such as: Do organizational staff and board members have a standing invitation to committee meetings, or must they be specifically invited? Should their participation be regulated to an advisory role or may they participate in the committee's decision-making process?

## **Creating board liaisons**

Committees should select a specific member(s) to act as a board liaison to ensure consistent communication between the committee and the organization's board. The liaison may be a staff member who is first or second chairing the committee, alternatively, if the executive director or co-directors staff the committee, they may serve as the liaison. The liaison may also be a different board member appointed for a specific purpose and communication and may change with the committee's needs at the time. The committee should select which methodology best fits with the size, and needs of their organization or may wish to try different methods to see what works best (for example, some organizations may choose to not appoint a liaison).

## **Cross-committee communications**

Depending on organizational structure, a DEI committee may choose to adopt a formal procedure for cross-committee communication. This can be beneficial in larger organizations, but may be unnecessary in smaller organizations, or organizations that prefer less structured communications.

For example, similar to a board liaison, a committee could designate a member as a cross-committee communications coordinator (CCCC). Much like a Board Liaison, having a designated CCCC, or C4, on every committee can create clear channels, and procedures for cross-committee communications. Alternatively, this responsibility could be assigned to a committee's chair(s).

## **Developing a Purpose and Charter Language**

Group Agreements and Committee Charters are vital tools in intentionally shaping the work of a committee and the larger culture of an organization. Group Agreements serve as guiding principles for communication, setting a standard for how to engage with difficult subjects in a way that is sensitive to ongoing histories of violence and oppression. A Committee Charter outlines the specific purpose and structure of a committee, establishing the foundation for how the committee will conduct its work.

A Committee Charter serves to outline the specific structure and purpose of a committee. While Group Agreements shape the work that a committee does, the Committee Charter guides and defines that work. Group agreements potentially including the committees' purpose, facilitation structure, terms of service, and guiding principles.

The specifics of a Committee Charter will vary depending on the needs and desires of your organization, for example, IDEAL's two year term of service was decided as a way of ensuring continuity, and that the committee have adequate time to perform concrete tasks, such as the creation of this toolkit. As charters guide the work of the committee, it is advisable to regularly consider whether the committee is acting consistently with the Charter.

It is incredibly challenging to schedule regular meetings with a multitude of people, many of whom are attorneys who may be litigators and unexpectedly be called into court. It is helpful to have members who aren't attorneys as a part of the group, in part to add to the diversity of represented voices and experience, and in part because their schedules *may* be more flexible. If committee members have difficulty attending meetings or meeting commitments, consider reevaluating how meetings are scheduled and what commitments are made. It may be helpful to establish a working group with a smaller number of members that is able to regularly meet and accomplish tasks together.

It is important for committee members who are not able to dedicate as much time, or attend meetings more consistently to acknowledge this dynamic, to thank the members who are dedicating more time and to trust the work that has moved forward in their absence. If a member has strong opinions or wants to re-do any of the already completed work, this should be addressed by the co-chairs and/or leadership. If the committee asks for feedback from other members, the committee should make it clear what the bounds of constructive feedback entails. The charter should make procedures related to the above clear to help guide the committee when these types of challenges arise.

Group Agreements are a foundational part of centering justice, equity and accountability in the work that we do. Group Agreements seek to actively undo oppression present on internal, interpersonal, organizational, and systemic levels by setting intentional norms for communication (see, e.g., the Group Agreements adopted by the IDEAL Committee).<sup>43</sup> We invite you to borrow freely from our agreements and encourage you to have your own discussions about Group Agreements as part of the first meeting of

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<sup>43</sup> <https://laaconline.egnyte.com/dl/GuxV5QUgCj>.

your committee. Implementing group agreements across your organization can be an important step towards centering justice within your organization.

## **Buy-in from the Full Board: Explaining the Importance of DEI**

### **Board applications with diversity question**

Having a mechanism for leadership and the board to receive anonymous requests opens up space for board members to make suggestions they might not otherwise make. There are a myriad of reasons for this such as: fear of being seen, or cast in a negative light; fear that their board service could be put at risk by bringing up a topic that may cause others discomfort; or fear their opinions will be treated as though they speak for an entire community, especially if they are one of the few board members from a historically marginalized group.

### **Communication tactics as a bridge for diversity, equity, and inclusion practices**

When a board is unfamiliar with DEI, and when a board consists of members who are predominantly white, cisgender (not transgender), and straight/heterosexual, it is important to assess the baseline of the group. Consider if there are other members of the board who come from historically marginalized backgrounds who could have a hard time sharing space with the rest of the board as you attempt to establish a baseline. No matter the topic, when the individuals within a group have a different baseline than one another, it can cause tension and resentment and may impact retention for everyone.

The first, best practice action you can take is to establish communication agreements through community agreements (see, e.g., [IDEAL Committee Community Agreements](#)) to bring in outside support to learn how to communicate across differences and communication skills. This should include being able to identify emotional activation and triggers, the cause of activation, and positive coping skills for responding to activation. This should also include learning how to “share the air” for extroverts, which may include those who are from backgrounds which may cause people to listen to them more often, and may have taught them unconsciously to take up more space in conversations. This is also an opportunity to honor the contributions of introverts, which may include people from historically marginalized backgrounds who are given messages, via implicit bias, that their contributions are less valuable or will not be heard.

Practicing active listening, and learning how to give and receive constructive feedback is crucial for being able to have difficult conversations such as topics related to race and gender. This is because generally people with these intersecting forms of privilege are

not taught by society how to listen to or believe people who have a different experience than themselves. An example of this is the #metoomovement, in which survivors of sexualized violence, by in large women and feminine-presenting people all over the world spoke to their experiences related to gender bias, “rape culture,” and what is needful to build “consent culture.”<sup>44</sup> Many men and masculine people felt threatened by these conversations, derailed conversations, were unable to listen to the experiences of the brave survivors of sexualized violence, and gender bias explaining their experience. No matter how kind the people were in retelling their traumatic experiences/stories, they were blamed, criticized, and shamed.

Communication and listening skills become a bridge by which we are able to listen to one another’s personal narratives and understand experiences other than our own. A board can have meaningful and respectful conversations about diversity, equity, and inclusion topics once everyone has a shared understanding of how to really listen to each other with dignity, compassion, and grace. If a board is generally more conservative, and consists of mostly people with the most access to privilege and social capital, specifically white, cisgender (meaning not transgender), straight/heterosexual, men with wealth, building these skills is perhaps the only way to have any hope of having a healthy and productive foundation from which to begin to talk about diversity, equity, and inclusion.

## **Implicit Bias training for full board**

### **The Value**

When a board has developed communication skills sufficient to have productive and effective conversations with kindness and mutual respect, the next action is to develop a lens for implicit bias. We all develop bias throughout our lives. No one is immune. It is metaphorically in the air we breathe and the water we drink. Implicit bias is all around us from the time we are children. It is in the words of the adults around us. The adults we love and trust and we inherently want to believe are good and infallible. Of course, all adults are fallible. And people are good. And we are all influenced by implicit bias unbeknownst to ourselves.

We continue to receive messages from institutions such as schools, the legal system, media, and even music and art. Some of us grow up in homogeneous environments where most of the people around us are similar to us in terms of both social and personal identities. This continues to reinforce beliefs we have developed about people different from ourselves. Some of us grow up in environments that are incredibly

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<sup>44</sup> See, e.g., Amnesty.org Let’s Talk About Yes Activist Toolkit, <https://www.amnesty.org/download/Documents/ACT3018972020ENGLISH.PDF>

diverse, and while we may learn to challenge stereotypes, and bias based on the lived experiences we have, we too are susceptible to unseen bias.

By having a board understand the science of implicit bias and the unintended consequences of not developing a lens for bias, your organization will have a board that will inherently support the mission statement, cornerstones, and values of your organization. It is impossible to have an organization support the mission statement without a lens for diversity, equity, inclusion, and implicit bias. In addition, the staff are more likely to feel supported by and connected to the board when the board is aware of and working on issues related to DEI that impact staff and the low-income Californians legal aid organizations seek to serve.

### **Best Practices**

If it is possible, hold a full board implicit bias training and/or facilitated conversation quarterly. This means integrating time for DEI work into the agenda, and carving out enough time to have meaningful conversations with emotional depth. This is not for the faint of heart. Legal aid attorneys are capable of having these brave and authentic conversations. Creating the infrastructure to make it possible to do so is a best practice that will support this work.

### **Full board commitment**

This work will be extraordinarily challenging without the commitment of the full board. If everyone cannot agree that intentionally doing DEI work together is and should be a priority, the likelihood is high that conversations will be challenging, and involve more conflict.<sup>45</sup> Often people with privilege are insulated from feelings of discomfort related to that privilege. People may conflate feeling uncomfortable with feeling unsafe and view people from marginalized backgrounds naming dynamics, attitudes, and behaviors such as white fragility as dangerous, emotionally violent, or combative. The above concepts must be addressed, and there must be full board commitment to dismantle these dynamics inherent in dismantling systems of oppression in order to be able to experience healthy and productive conflict. People with privilege must be able to acknowledge that it is difficult to not take these interactions personally when we are discussing topics that relate to our own personal and social identities.

It is also a feature of bias itself that we fear conflict and wish to deem that which is emotional as unprofessional. Those of us who are from marginalized backgrounds may feel that it is impossible to untangle the personal from the political when it comes to DEI topics. If someone else's opinion questions our very humanity or lived experiences, it is

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<sup>45</sup> See, e.g., Lupe Poblano, *Challenging White Dominant Culture*, CompassPoint Blog, <https://www.compasspoint.org/blog/challenging-white-dominant-culture-time-look-mirror>.

hard to not take it personally or to want to give up. People with privilege must be able to listen to others who challenge their core beliefs and call out that bias may be at work without considering them as combative, trouble-makers, or those who cause conflict.

For those of us from historically marginalized backgrounds, our challenge is to remember that while conflict is not inherently bad, there is a frequency and emotional charge that can damage interpersonal relationships when conflict occurs frequently, or is intense. People with privilege are also less able to hear us if we are unable and unwilling to extend kindness and compassion in these extraordinarily difficult conversations. Dismantling systems of oppression is reciprocal work, and will take patience and time. As we learn to extend the benefit of the doubt, a presumption of positive intention, and a belief in the ability to do better and different from one another, we are able to move forward the organizational work in impactful ways that honor our organizational mission statement, and values.

### **Institutionalizing Management Accountability in Relation to the Board**

It is a part of the dominant culture to set up organizational structures in a top-down way that avoids institutionalizing management accountability. This frequently means that while staff are regularly evaluated and provided with constructive and positive feedback related to their performance, those in managerial positions never hear from the people they supervise about what it is like to be managed by them. Management does not always ask how they could be better or different, and there is often a presumption that the people who are being managed do not have the expertise to provide meaningful feedback to those that manage them.

Not only is this presumption untrue, it erodes organizational health and prevents those in positions of power and authority from becoming better and more effective leaders. Some organizations respond to this cultural practice with the antidote of 360-degree review practices and reciprocal feedback models. This can be integrated into weekly check-ins, in addition to regular quarterly formal review processes. Executive directors are often not evaluated by staff at all, and the board which is responsible for oversight of executive directors often does not seek feedback from “on the ground” staff.

LAAC has worked to counter these practices in a number of ways. One of which is that the LAAC board does conduct a review of the executive director in which the board distributes an anonymous survey to all staff. Board members then interview individual staff in a 30 to 60 minute call to obtain more detail and explore complex topics in depth. Management has a reciprocal feedback model for regular check-ins with staff. Leadership at every level regularly asking the people they supervise what they are doing well as a supervisor, and what they could do better and differently, supports

providing the best possible services whether your organization provides direct services to people or supports other attorneys in their work.<sup>46</sup>

Consider the extent that the board may be involved and appraised of decisions related to hiring, promotions, and terminations. If leadership will be reporting to the board regarding these decisions, this may create a form of accountability wherein leadership is not making decisions within a vacuum. If leadership who would be making these decisions consist only of white, cisgender, heterosexual people, and there are board members who represent more diverse identities, they may be able to provide context and potential solutions where existing leadership see none. They may also be able to offer perspective in terms of the mistakes made and whether the proposed outcome is proportionate, appropriate, and in alignment with the mission and values of the organization.

## **EXTERNAL FACING DEI AND RACIAL JUSTICE EFFORTS**

When we think about DEI and racial justice, it is important to think about it beyond just our internal policies. While many law graduates may be exposed to concepts related to traditional lawyering and “social justice lawyering,” many are not exposed to the concept of “rebellious lawyering,”<sup>47</sup> As a result, many may not critically consider their relationship to the community they serve or the ways in which they reproduce harmful social structures. It is essential to be engaged with internal processes around DEI and racial justice, but make sure to create legal cultures that also examine how lawyers serve and connect with the broader community we work with and within. Below, we briefly outline and define some of the major ways to think about lawyering in both the traditional sense and non-traditional sense. This includes more radical ways of lawyering that center the needs, thoughts, and feelings of clients, destabilize the notion of the lawyer as savior, and articulate the importance of building interdisciplinary alliances with organizations

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<sup>46</sup> See, e.g., the Sylvia Rivera Law Project in New York. <https://srlp.org/>

<sup>47</sup> See, e.g., An Imperative Redefinition of “Community”: Incorporating Reentry Lawyers to Increase the Efficacy of Community Economic Development Initiatives, 55 UCLA L. Rev. 1883 (2008), Coolies, James Yen, and Rebellious Advocacy, 9 UC Davis School of Law 2 (2007), Community Lawyering, 81 Cal. L. Rev. 1363 (1993), How Racial Profiling in America Became the Law of the Land: United States v. Brignoni-Ponce and Whren v. United States and the Need for Truly Rebellious Lawyering, 98 Georgetown Law Journal 1005 (2010), Justice in the Balance: An Evaluation of One Clinic’s Ability to Harmonize Teaching Practical Skills, Ethics and Professionalism with a Social Justice Mission, 16 S. Cal. Rev. L. & Soc. Just. 23 (2006), Lawyers as Resource Allies in Workers’ Struggles for Social Change, 13 N.Y. City L. Rev. 213 (2009), Mission Impossible?: Ethical Community Lawyering, 7 Clinical L. Rev. 147 (2000), More than One Lane Wide: Against Hierarchies of Helping in Progressive Legal Advocacy, 19 Clinical L. Rev. 347 (2012), People from the Footnotes: The Missing Element in Client-Centered Counseling, 27 Golden Gate U. L. Rev. 345 (1997), Planting People, Growing Justice: The Three Pillars of New Social Justice Lawyering, 10 Hastings Race & Poverty L. J. 219 (2013), Power from the People, 92 Mich. L. Rev. 1725 (1994).

and movements that do not provide legal services (especially those outside the nonprofit industrial complex<sup>48</sup>). We hope that in the future what may now be considered “radical” may become best practice and that even better innovations are yet to come in terms of the existing “radical” concepts.

## **Traditional Lawyering, Community Lawyering, and Rebellious Lawyering**

Traditional lawyer/client relationships involve the lawyer being “the voice”<sup>49</sup> for the client with the court and/or opposing party and does not necessarily seek community input when advocating for systemic remedies. Community lawyering is grounded in community organizing principles, which involves empowering and building capacity for advocacy within the local community. Affected individuals are involved at every step of the process to create ownership of that process and ensure decisions are responsive to community needs. Community lawyering goes beyond targeted legal interventions to also include addressing non-legal needs, building capacity in communities for self-advocacy, ensuring remedies are responsive to community needs, establishing trust with local communities, and mitigating power differentials with marginalized groups.

Community lawyering uses legal advocacy to help achieve solutions to community-identified issues in ways that develop local leadership and institutions that can continue to exert power to effect systemic change.<sup>50</sup> It is “an umbrella term for collaborative, community-based approaches to legal services.”<sup>51</sup> Advocates may contribute their legal knowledge and skills to support initiatives that are identified by the community and enhance the community’s power.<sup>52</sup>

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<sup>48</sup> See, e.g., *Beyond the Non-Profit Industrial Complex*, INCITE!, <https://incite-national.org/beyond-the-non-profit-industrial-complex/>.

<sup>49</sup> “It is incumbent upon us to seek out the voices of the poor and listen to them.” William P. Quigley, *Revolutionary Lawyering: Addressing the Root Causes of Poverty and Wealth*, 20 *Poverty, Justice, and Community Lawyering: Interdisciplinary and Clinical Perspectives* 101, 159 (2006).

<sup>50</sup> “Community Lawyering is a vehicle for motivating and supporting lasting changes that bring about social justice and build grassroots leadership in our communities.” *Community Lawyering*, Sargent Shriver National Center on Poverty Law, [https://www.probono.net/nlaan/calendar/event.421483-Community\\_Lawyering#:~:text=Community%20Lawyering%20is%20a%20vehicle,grassroots%20leadership%20in%20our%20communities](https://www.probono.net/nlaan/calendar/event.421483-Community_Lawyering#:~:text=Community%20Lawyering%20is%20a%20vehicle,grassroots%20leadership%20in%20our%20communities).

<sup>51</sup> *Community Lawyering/Grassroots*, Harvard Law School, <https://hls.harvard.edu/dept/opia/what-is-public-interest-law/public-interest-work-types/community-lawyering/> (“Community Lawyering/Grassroots, Harvard Law School, <https://hls.harvard.edu/dept/opia/what-is-public-interest-law/public-interest-work-types/community-lawyering/> (“the core elements are the integration of the lawyer into the community the lawyer serves, the use of multifaceted approaches to problem solving, and the investment and empowerment of community members in the lawyering process.”).

<sup>52</sup> See generally Dean Spade, *For Those Considering Law School*, <http://www.deanspade.net/wp-content/uploads/2010/10/For-Those-Considering-Law-School.pdf>.

Community lawyering may involve hosting town halls or legal clinics to learn the legal and non-legal needs of a community and discuss how the community would prefer to address those needs. Hiring a community organizer to work closely with attorneys can be an effective way to engage clients to become leaders and advocates on a particular issue. This approach enables lawyers to work as co-leaders with the same affected communities they serve and can transform a legal clinic from a place where people not only come to get legal advice and support, but also where people can come to learn nonlegal ways to advocate for themselves and organize their community to meet larger needs, including political engagement and legislative advocacy.<sup>53</sup>

Community lawyering can involve client-centered approaches. Client-centered lawyering is an approach to providing legal services that is “based on the idea that clients should be the primary decision-maker in determining the direction of their legal case or transaction, whereas attorneys should maintain the appearance of neutrality and provide legal counsel as objectively as possible.”<sup>54</sup> Further, client-centered approaches, in a more radical context, can become “rebellious lawyering.”

Rebellious lawyering is a concept coined by Gerald López as “a vision of progressive lawyering which utilizes a client-centered approach to empower clients and which integrates sociology and anthropology with law practice.”<sup>55</sup> This form of praxis “requires lawyers to be knowledgeable about the cultures and experiences of the groups of clients they work with” and advocates for a more comprehensive and coordinated approach to both legal and non-legal problem-solving in low-income and immigrant communities. We cite a number of law review articles above on the topic of rebellious lawyering.

There are voluminous articles focusing on rebellious lawyering across a vast array of legal subjects including: environmental law, health law, housing and community economic development, immigration law, prison justice, and reproductive justice to name just a handful. If you do not see an article specific to your program’s practice area(s), we encourage your organization to conduct at least a brief search for a law

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<sup>53</sup> For more information on effective community lawyering, see *Race-Conscious Community Lawyering: Practicing Outside the Box*: <https://static1.squarespace.com/static/577c8338bebafe36dfc1691/t/5d44a7af96e00010d1ce0/1564780469896/Community+Lawyering-+Practicing+Outside+the+Box.pdf>, and *Making the Case for Community Lawyering*: <https://dredf.org/wp-content/uploads/2019/08/Materials-CommunityLawyering-HealyAndTaylor-Clearinghouse-2016Nov.pdf>.

<sup>54</sup> Julie D. Lawton, *Who Is My Client? Client Centered Lawyering With Multiple Clients*, 22 *Clinical Law Rev.* 145, 147 (2015), [https://www.law.nyu.edu/sites/default/files/upload\\_documents/Julie%20Lawton%20-%20Client-Centered%20Lawyering%20with%20Multiple%20Clients.pdf](https://www.law.nyu.edu/sites/default/files/upload_documents/Julie%20Lawton%20-%20Client-Centered%20Lawyering%20with%20Multiple%20Clients.pdf).

<sup>55</sup> Hada, *We Need More Rebellious Lawyering*, *Medium* (Mar. 15, 2017), <https://medium.com/race-law-a-critical-analysis/we-need-more-rebellious-lawyering-75d814c7e160>.

review article that may help you improve and innovate upon your lawyering, whether it is impact litigation or direct services. An hour of research could be impactful for your reputation in the community you serve or the legal strategy you pursue in a high-profile case. It may also help you understand recent law school, paralegal, and social worker graduates and their views which may not be “overly idealistic” or “unrealistic,” but rather reflective of the changing landscape and expectations for legal aid. In alignment with a more rebellious, client-centered approach, the following discussion intends to discuss how we can integrate these approaches with DEI and racial justice.

## **Client Experience and Interaction**

In creating cultures of a community lawyering praxis implementing DEI and racial justice philosophies, we must center the client’s experience. This includes not just how we advocate, but how we structure even the most basic interactions with clients. Just as the prior section discussed inclusive practices when it comes to our employees and coworkers, these practices must also be implemented in a client-facing manner, including aspects like bathroom access and policing gender as well as mis-gendering and assuming gender. It involves the manner in which we welcome a client to the office, the intake process, communication expectations, and disability access considerations. Making sure we develop a holistic, thoughtful approach to meeting with and accommodating for client needs is critical to serving our communities in the most effective, inclusive fashion possible. Practicing active listening, valuing client experience, and utilizing a non-judgmental approach can benefit rapport and, ultimately, success in cases involving any level of service from full-scope representation to brief advice.

## **Building Equity and Accountability in Client and Community Relationships as Part of Larger Movement Toward Structural Change**

If reaching equity necessitates creating and strengthening policies, practices, and structures that produce fair outcomes and eliminate disparities based on social factors, then for equitable attorney-client relationships to exist, we must consider how these social factors impact the attorney-client power dynamic. As advocates, we must recognize the ways in which we might perpetuate harm towards our clients by ignoring the nuances of our clients’ needs and thereby limiting the effectiveness of our legal assistance.<sup>56</sup> Rather than remaining siloed, we must look at ways to destabilize the hierarchy that places lawyers at the top and superior to other methods of achieving social justice, while working to collaborate and commiserate with community-based

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<sup>56</sup> There are an array of strategies for improving client interactions through a multicultural, anti-racist approach. Washington Race Equity & Justice Initiative, Washington Pro Bono Equity Training Guide, <https://justleadwa.org/wp-content/uploads/2019/08/Pro-Bono-Equity-Training-Guide-Final-August-2019.pdf>

organizations, especially those outside institutional spaces and the nonprofit industrial complex's delineations of plausibility, success, and funding restrictions.<sup>57</sup>

## **FUNDING DIVERSITY, EQUITY, AND INCLUSION WORK**

DEI work is an investment in an organization's culture and internal and external practices that requires a sustained financial commitment and investment of staff time. As with any other work, it's important to consider the financial implications of DEI work and the question of funding. The specifics depend on what your organization decides to pursue; whether it's a matter of finding ways to compensate your employees' time or bringing in outside trainers and consultants for additional support, it's essential to allocate specific funding for DEI work.

### **Budgeting for the work**

Creating a budget is a key start for securing funding for DEI work. If your organization and/or board is unfamiliar with the cost of outside trainers, it is important to consider creating a request for a proposal process for organizations or consultants who may be interested in working with you. Alternatively, you may wish to request quotes directly from organizations. If your organization wishes to apply for grant funding, be sure to get together the documents typically needed for grant applications (990 tax forms, staff demographics, general language about why your organization needs this type of support). Be sure to identify who will be responsible for gathering these documents, tracking deadlines, and submitting applications.

### **Cost of DEI Services**

Depending on the type of training ("out of the box" versus customized), the length of the training, the number of trainers/facilitators, and the frequency of trainings pricing may vary widely. Trainings for 1-3 hours may cost up to or more than \$1,000. Trainings for a half-day or full-day may cost more than \$1,000. Trainings over a several day period, such as for a multi-day staff retreat, will likely also exceed the \$1,000 mark.

Some DEI services are provided through a strategic plan lens and are meant to last for 1-2 years and may cost upwards of \$10,000 for each year. Typically, these services include: an assessment of an organization's DEI needs; the creation of a DEI specific strategic plan or updating of strategic plan to include a diversity lens; customized content related to the strategic plan; the creation of customized handouts; website and

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<sup>57</sup> For information on framing and communicating client stories, see Voices for Civil Justice, <https://voicesforciviljustice.org/>.

communications analysis; and multiple periodic training sessions throughout the timeframe.

Investing the money needed to engage in comprehensive planning and training may save your organization money in the long term, including the savings made in retaining staff. A single training by one consultant, collective, or organization, however, may be insufficient to move organizational diversity forward. Staff may leave feeling overwhelmed by the amount of work remaining with no clear plan for how to address the issues surfaced by such a training.

Although these numbers may be daunting, particularly for a small, under-funded legal services non-profits, fairly compensating DEI trainers and facilitators is an inextricable part of DEI work. Trainers and facilitators should not be financially undervalued simply because the type of work they do is traditionally regarded as peripheral or less important.

Collaborating on DEI work is a potential site for powerful coalition building and an excellent way to foster relationships between organizations.

### **Consultant and Collective Fees**

Remember that individual consultants have to cover their overhead, may be responsible for paying for their own health insurance, and, as a sole proprietor or small business, have to set aside a large portion of their fee for taxes. If the small business is a collective and consists of several people, there may be complex agreements within the collective about pricing and a specific process for considering an adjustment to the fee. It is important to keep in mind and honor that consultants set their fees with many complex factors in mind.

Consultants adjust their fees based upon their level of experience. Asking to pay a rate at a level that is not commensurate with the person's education and experience may be harmful and insulting. In addition, many consultants have lived experience as a part of a historically marginalized group or groups such as being a person of color, a person with a disability, or a member of the LGBT+ (lesbian, gay, bi-sexual, transgender community), or a queer person of color with disabilities.

Keep power dynamics in mind. As an organization, that may be the difference between the person being able to secure the work they need to pay rent on their office space or to receive a paycheck that month, and consultants and collectives can feel at a bargaining disadvantage. If you inquire about a non-profit rate, be careful to ask if the person, or collective, offers such a rate in a fashion that acknowledges the value of their services and a desire to be respectful of their fee if there is no non-profit rate available.

## **Non-Profit Community Based Organization Fees**

When working with a non-profit organization, consultants may have more flexibility in the fees they charge. Many non-profit organizations that engage in diversity training offer a “for-profit” and a “non-profit” rate. Some organizations require you to provide the reason why you are asking for a non-profit rate, while others simply ask you to confirm your 501(c)(3) status. Be prepared to provide a short explanation about the need for a non-profit rate if asked and to provide a tax identification number if the organization wishes to confirm your organizational status.

## **Independent Funding**

Securing and allocating DEI-specific funding is an integral part of ensuring effective and sustainable DEI initiatives. Securing new DEI specific funding, or finding ways to bill DEI work to pre-existing contracts, reduces strain on an organization's General Fund. Independent funding allows the organization to fully consider what work is necessary for their situation, as opposed to only being able to consider what they can fit into their existing budget. It can be worth considering seeking outside funding, including from law foundations and through grants. Having specific funding allows for deeper and more effective engagement with the necessary work, including dedicated staff time working on DEI internally and externally.

## **Educating Funders**

Promoting DEI work within your organization also offers an opportunity to educate current and potential funders. Potential messaging for a funder could include issues of diversity and inclusion that underlie everything our organizations do. Working to become just, diverse, and accountable organizations makes us more effective and better equipped to serve and support our diverse clients and communities. Additionally, allocating specific funding to DEI work is an important step in acknowledging and supporting the work that marginalized employees of an organization are likely already doing. Funding DEI work allows us to undo that imbalance, recognize the value of this work and bring in additional support in the form of outside trainers and consultants.

## **The Priceless Value of Outside Support**

Funding DEI work also allows organizations to bring in and benefit from the expertise of outside consultants. Outside expertise can range from bringing people in to do a one time anti-bias training, tailored trainings, or working together to build a specific strategic plan for your organization. Support of this sort can be invaluable in shaping and furthering DEI initiatives.

## Internal DEI Training by Staff

When existing staff attempt to provide training, they may not be taken seriously. There may also be power dynamic issues such as teaching the people who have the power to make employment termination decisions. Moreover, if no one at the organization has a holistic DEI baseline, or they have no previous experience doing training or facilitation, they may not be equipped to provide the training in the first place. Finally, if staff lead the training, they will not be able to meaningfully engage with the training or other staff members in the same way.

Another consideration is if this would require staff to provide unpaid volunteer labor in addition to their everyday job. If the training is being offered by an internal committee or individual staff, it is crucial that staff be given room in their workload to do this work so that it is not additional unpaid volunteer labor. Otherwise, resentment can grow and retention issues may emerge as a result. For instance, consider adjusting staff hour targets and individual deliverable responsibilities so that staff can complete DEI work and meet their programmatic expectations. This may mean a slightly reduced caseload for direct service providers and a redistribution of labor that acknowledges the value of the DEI work to organizational health and sustainability. If possible, consider offering a paid stipend for this additional work.

## Retention Considerations

If a staff member or members are providing DEI training consistently with some frequency, it is important to recognize that labor in terms of title and pay. Consider adjusting staff title and pay to reflect this labor. Organizations that are financially resourced in such a way that the organization can hire a staff member specifically to work as a DEI director and/or coordinator should do so. That staff member would coordinate bringing in outside trainers in addition to conducting internal training if appropriate for their role.

A number of large legal aid organizations now have staff serving in specific diversity roles including at a senior level such as serving as both *General Counsel* and *Director of Diversity, Equity and Inclusion*. Consider if there are any potential conflicts in having staff serve in multiple roles/"wear multiple hats." Sometimes, when there are dual roles, the DEI work might not be prioritized and the position can end up just being symbolically engaged with DEI. For instance, not all human resources staff are equipped to provide comprehensive diversity, equity, and inclusion trainings. This issue often disproportionately impacts members of the LGBT+ (lesbian, gay, bi-sexual, and transgender) community, and especially transgender individuals.

In addition, staff in a human resource role have the added complication of their duty to specifically protect the organization from exposure to liability. Many organizations have specific diversity staff or internal diversity committees work with human resources staff

rather than having human resources staff serve as a substitute for staffing a DEI specific position and/or having DEI committees (staff and/or board committees).

### **Minimum Continuing Legal Education (MCLE)**

If there is an attorney qualified to teach about DEI, with an educational and/or professional background in facilitating and teaching DEI, consider hiring someone who is able to potentially teach and offer training with Minimum Continuing Legal Education (MCLE) credit. If your organization is not yet qualified to serve as an MCLE provider, consider becoming qualified through the California State Bar or partnering with a qualified organization such as Legal Aid Association of California (LAAC) or outside trainer who is qualified to provide MCLE credit. This can encourage attorneys to participate in training with more enthusiasm.

### **The Role of the Board in Fundraising for DEI Work**

Generally, board responsibilities in terms of governance include reviewing the organizational financial health and approving or disapproving organizational financial decisions. There is a fiduciary duty to ensure that organizational funds are used responsibly and in service to the organization's mission. Some boards have an advisory committee, in accordance with their bylaws, which works to facilitate greater financial support for the organization whether by generating new partnerships, assisting with fundraising events or campaigns, or other efforts, and in some instances by making a personally significant donation annually.

Many organizations have boards that are primarily "fundraising boards" that seek funding to help support the legal aid organization in a number of ways. For instance, connecting with and educating potential law firm foundations and private donors about the importance of funding DEI work in relationship to an organizational strategic plan. Boards with a fundraising focus may have a minimum amount that each board member is responsible for personally donating and/or raising. Boards that aren't "fundraising boards" may still participate in fundraising including for DEI work. Regardless, the board should intentionally consider and reach consensus on what their role will be in terms of financial decisions related to DEI at an organization. In 2020, recognizing that LAAC had no dedicated funding for racial justice and DEI work, the board engaged in a peer fundraiser, using Facebook as a platform, and raised over \$10,000 in less than a month. Executive Directors can also proactively agendaize DEI as a topic for boards to consider, including the funding implications and other questions it may raise.

In addition, board responsibilities include development of, and/or approval of, an organizational strategic plan. This includes ensuring that the organization has sufficient funds to meet the goals and objectives of that strategic plan. It is a recommended best practice to include DEI in the organizational strategic plan, which could include internal

DEI goals (e.g. hiring recruitment, retention) and programmatic DEI goals (e.g. grounding the work in racial justice). By including DEI in the strategic plan, the board's role in supporting the funding needed to conduct DEI work is clear and may guide the creation of an advisory committee or the standing advisory committee's work.

### **Intra-Committee Communication Pertaining to Funding Requests**

In order to obtain funding to pay outside DEI trainers/facilitators to provide trainings, it may be necessary to get preliminary approval from the board finance committee if the decision must be made between board meetings. Ideally, a DEI budget would be built into the board-approved budget for the fiscal year, but if an organization wishes to expand their DEI consultant costs mid-year, it may require additional work.

Depending on the size of your organization and how often your board committee may be making these types of decisions, it may be helpful to create a communication policy for these requests that sets forth who communicates with whom on the finance committee and what information must be included in requests.

The information may include the total cost, the purpose (training on a specific topic), and how the request relates to the mission of the organization (necessity). For example, the purpose may be that the board in its current formation has not had an implicit bias training together and it could be helpful to have such a training to set a baseline understanding, including specific terms/vocabulary and communication tools.

### **Acquiring funding**

Some organizations ask that every staff member and board member hold a piece of acquiring funding through grants and donations. Others clearly designate specific development and communications staff to work on this role and ask that others provide necessary information to support those staff members in creating application content and developing an "elevator pitch" or language for a more robust ask. It is important that organizational leadership and the board consider the role of staff and the board in working to acquire funding.

It should be clear to all staff members and board members what the expectations are in advance of hiring and as a part of the onboarding and orientation process.

Organizations may utilize the grant applications process to train appropriate staff on aspects of grant applications, such as creating a budget, drafting application language, and creating staff time targets. Consider integrating this into the training of potential future leaders at the organization. For instance, if staff express interest in eventually being in a role that would regularly interact or oversee a portion of the grant or fundraising process, consider offering training as a part of professional development. Please see the addendum for resources for funding.

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## Conclusion

We would like to once again reiterate that this Toolkit is not the end-all-be all. It is not a complete road map of what actions need to be taken to ensure an inclusive equitable organization, nor is it intended to be. Rather, this document exists to help start conversations in our communities and organizations, and provide tools to engage with the work ahead. This document is a living, community document that we, through both a Racial Justice and DEI lens, hope to grow and develop based off of our community's feedback, knowledge and experience to assure that it is truly reflective of our community's needs. By engaging with this in a collaborative, intentional, and emergent way we aim to disrupt the ways that white supremacy and other forms of oppression can exhibit themselves in our communities and organizations. Please get in touch with us at [ideal@laaonline.org](mailto:ideal@laaonline.org) about edits, comments, suggestions, and anything else. We look forward to furthering the work together

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## **Addendum**

### **A. Sample Committee Documents**

1. [Board Application](#)
2. [Charter Language](#)
3. [Community Agreements](#)

### **B. Sample Internal Policies**

1. [Bereavement leave policy \(notes\)](#)
2. [Scent free and scent conscious policy](#)
3. [Sexual harassment policy](#)
4. [Transgender inclusion policy](#)

### **C. Sample Internal Survey**

1. [DEI Survey Questions](#)