Staffing an Access to Justice Commission

Adequate and effective staffing is necessary to provide Access to Justice Commissions with support, continuity, communications, and continued momentum. The skill, ability, and energy level of a Commission’s staff are essential to the success of the Commission’s effort. Effective staffing requires significant interpersonal, communications, and political skills, the capacity to work effectively with a diverse group of volunteers, knowledge of the legal system and an understanding of the legal needs of low-income people. See Hallmarks of Effective Access to Justice Commissions.

Providing adequate staffing is a challenge for most Access to Justice Commissions. In the ATJ Leadership Survey conducted in early 2015, only one in five respondents agreed that “Staff capacity is sufficient to support the Commission’s efforts.” Most Commissions report that they could do more with an increased staff capacity. Seven of the commissions responding indicated that they have no dedicated staff support at all.

Experience in many states has shown that funding adequate staffing for a Commission is a wise investment that will pay off in increased resources benefitting clients. Access to Justice leaders should do whatever they can to find the resources to ensure that their efforts are staffed as effectively as possible. If at all possible, staff should have Access to Justice as a sole, or at least primary, job responsibility and should report directly to the Access to Justice leadership. In practice, this will not always be possible, especially in a smaller state with few resources.

The most common model is for Commission staff to be located at (and funded by) a partner institution – usually the courts, the state bar, or the bar foundation. This situation may occasionally create complications where staff report to the Commission but are employed by the other entity. In addition to creating difficulties for the staff person involved, such an arrangement may hamper the independence of the Commission. Nevertheless, these issues can generally be worked through, and this model has proven effective in a number states. A Memorandum of Understanding between the Commission and the other entity may be helpful.

Ideally, the Commission will be able to identify a new source of funding for Commission staffing so it will not be perceived as competing for funding that would otherwise go to direct services. Possible sources include:
• A new fee or surcharge sufficient to fund the Commission’s staffing and activities, but unlikely to be allocated to civil legal aid for direct services. Several Commissions have identified relatively small surcharges or portions of court or bar fees that can yield resources sufficient to staff the Commission. For example, in North Carolina, leaders were able to add 50 cents per hour to a proposed surcharge on CLE fees that was pending to fund another, non ATJ-related Commission. Leaders should be alert for such opportunities.

• New funding for civil legal aid obtained through the Commission’s leadership, a portion of which is allocated to Commission staffing. If the Commission has played a leading role in developing a new source of funding for legal aid, the value of ensuring the Commission’s ongoing effectiveness will be self-evident.

• Contributions from law firms. A challenge with this approach will be ensuring that the contributions to staff the Commission do not cut into current law firm fundraising for direct services. This may be less of an issue if the contributions are in-kind (for example, office space and support or volunteer time from attorneys) rather than cash.

• Foundation grants. The recent effort led by the Public Welfare Foundation to increase the visibility of civil legal aid in the philanthropic community may help open some doors. Foundations may consider funding staffing for a new or currently unstaffed Commission on a short-term basis, to allow it to develop a track record and obtain ongoing, sustainable funding from other sources. Although foundations are probably unlikely to provide ongoing support for basic staffing, they may be open to funding specific one-time or short-term initiatives. See the chapter on foundations in the Resource Center’s Fundraising Manual.

• Combination of small grants from the courts, bar, or other sources.

A few Commissions have been successful without formal staff, but in these cases, the Chair, another Commission Member, or staff from stakeholder entities has assumed the responsibilities that would normally be assigned to Commission staff. Administrative staff from the courts or other stakeholders may handle administrative tasks.

Examples

Independent staff or consultant working directly for Commission

• Full-time Executive Director and half-time ATJ coordinator. North Carolina (funding from CLE fee add-on, paid to foundation that serves as Commission’s fiscal agent).
• Full-time Executive Director and Deputy Director. District of Columbia (funding from large bar firm contributions, through foundation that serves as Commission’s fiscal agent; housed at law firm).
• Full-time Executive Director (shared with IOLTA program), other professional and support staff. Arkansas (funded by attorney licensing fee, paid to foundation that also receives IOLTA; supplemented by grant funds for specific projects).
• Executive Coordinator, part-time. Maine (funding from small grants from bar, bar foundation, courts, and occasional foundation grants for specific purposes; paid through Bar Foundation/IOLTA, which serves as fiscal agent under Memorandum of Understanding).
• Independent consultant, part-time. Massachusetts (funding from varied sources collected by corporation that distributes state’s appropriated civil legal aid funding).

Housed at State Bar

• Full-time or more (bar funding). California, Nevada, Texas, Washington.
• Portion of a single bar staff person’s time (bar funding). Colorado, Wisconsin.
• Full-time position housed at bar, funded by bar foundation/IOLTA. South Carolina.
• Full-time position housed at bar, funded by Rule 6.1 contributions in lieu of pro bono. Mississippi.

Housed at Administrative Office of Courts

• Full-time Executive Director. West Virginia.
• ATJ Coordinator who also works on court ATJ initiatives. Tennessee, New Mexico.
• Part of portfolio of someone who also handles other court projects not directly related to ATJ. Kansas, Connecticut, Virginia.

Housed at Bar Foundation/IOLTA

• ATJ Coordinator, plus part of portfolio of Executive Director. Alabama (funding from court fees).
• ATJ Coordinator, plus part of portfolio of Executive Director. Montana (partial initial funding from grant).

Housed at legal services program

• Part of portfolio of Executive Director /other staff of legal services statewide support program. Kentucky (Arkansas initially used this model.)