

## Access to Justice Campaign Policies

(Final 6-2021)

### **MISSION AND OVERSIGHT**

The Access to Justice (ATJ) Campaign is a partnership between the Michigan State Bar Foundation (MSBF), the State Bar of Michigan, and the civil legal aid programs to raise money for civil legal aid to the poor. People living in poverty within the state of Michigan deserve equal access to the courts regardless of geography. Thus, the primary purpose of the statewide fundraising campaign is to ensure and improve the basic human right of access to justice by raising unrestricted funds for civil legal aid and promoting the equitable division of those resources for low-income people in Michigan.

The ATJ Campaign is grounded in the following beliefs:

1. Equitable access for persons in need should not be reliant on geography;
2. There are substantive gains possible with a well-supported, statewide ATJ Campaign; and
3. Success will rely on more robust central support AND local strategies with local donor engagement.

Each program participating in the statewide ATJ Campaign (“Participating Program”) is subject to the following standards, guidelines and policies. These parameters also apply to entities created to fundraise for Participating Programs. An ATJ Fund Steering Committee was created to provide oversight and guidance to the Access to Justice Campaign. The committee is comprised of individuals from the Michigan State Bar Foundation, the State Bar of Michigan, a representative from each participating legal aid program and leaders in the legal community.

### **LEGAL AID PARTICIPATING PROGRAMS**

The criteria for participating in the ATJ Campaign is set forth below:

1. Primary mission of the Participating Program is civil legal services to indigent clients or to benefit indigent clients;
2. Primary fundraising base of the Participating Program is lawyers;
3. The ATJ Campaign will be central to their fundraising work and messages to donors will align with and be reviewed and approved by the ATJ Campaign;
4. The Participating Program will promote the ATJ Fund and encourage the legal community to donate through the ATJ Fund; and
5. Participating Programs will be able to share campaign materials and will review their materials with the Michigan State Bar Foundation to ensure alignment.

The primary program recipients (“Participating Programs”) include Lakeshore Legal Aid, Michigan Legal Services, Legal Services of Eastern Michigan, Center for Civil Justice, Legal Services of Northern Michigan, Michigan Advocacy Program, Community Legal Resources, Counsel and Advocacy Law Line, Michigan Indian Legal Services, Michigan Poverty Law

Program, Michigan Legal Help, Michigan Elder Justice Initiative, Farmworker Legal Services and Michigan Immigrant Rights Center.

If a new program would like to participate in the collaborative campaign, applications for participation will be accepted in the Fall for potential participation for the following calendar year. Applications will be reviewed by the Steering Committee using the criteria outlined above, with a final decision made by the Michigan State Bar Foundation Board. New programs will not be considered for the first five years of the campaign or until all programs are raising more than their hold harmless amounts, whichever is earlier.

### **PHASED IN APPROACH**

MSBF values the work of Legal Aid of Western Michigan (LAWM) and appreciates the generous donations from the legal community in west Michigan. LAWM is going to participate in the ATJ Campaign through a phased-in approach and intends to fully participate in the centralized model after success is proven. A phased in approach allows LAWM to assess the campaign and gives LAWM time to positively message the ATJ Campaign. The following provisions will apply until LAWM is fully phased into the campaign:

1. LAWM will have a representative on the ATJ Campaign Steering Committee;
2. All Designated Donations from the legal community, including events and event sponsorships, will be donated through the ATJ Campaign unless the donor specifically says that they do not want their donation through the ATJ Fund;
3. All Direct donations from the legal community, including events and event sponsorships, to the organization will be transmitted through the ATJ Campaign, unless the donor specifically says that they do not want their donations through the ATJ Fund;
4. 100% of the designated and direct donations received by MSBF will be distributed to the designated program;
5. Donors who designate their donations through the ATJ Fund will be recognized in the ATJ Campaign recognition materials;
6. LAWM will not receive any portion of the statewide funds raised by the ATJ Campaign;
7. Because the ATJ Campaign utilizes MSBF's Charitable Solicitation Registration to solicit funds, fundraising materials, and solicitations for financial donations from the legal community will need to be approved by MSBF;
8. If pro bono materials include a solicitation for a financial donation, LAWM will use approved ATJ Campaign language; and
9. The ATJ Campaign will solicit the legal community in West Michigan, but LAWM and the ATJ Campaign will coordinate solicitations so that donors are receiving consistent messages. The ATJ Campaign will not ask donors to move their designation from LAWM.

Because distribution is determined by calendar year, if LAWM decides to opt in and fully participate in the centralized campaign, they must notify MSBF by October 1<sup>st</sup> to begin participation on January of the following year (the "opt-in year" is the beginning of a campaign cycle). LAWM has five years, until October 1, 2023, to provide notice that they will fully participate in the centralized campaign or they will be deemed to have opted out. If hold harmless provisions are still necessary and in effect at the time the program chooses

to opt in, hold harmless amounts will be set at the level of the donations received by MSBF which are designated for the program in the most recent annual campaign. The amount will generally be based on the calendar year but will take into account if donors give two donations in the same calendar year, that are meant to be recognized in a different year. When determining the amount, special circumstances such as anniversary events, capital campaigns or other circumstances that skew the amount will also be considered. MSBF and LAWMM will work together to determine a fair hold harmless amount. Because LAWMM will be channeling their donations from the legal community through the ATJ Campaign during the phase in period, there will not be the need to increase the hold harmless amounts based on direct donations to the program.

## **ELIGIBILITY FOR CONTINUED PARTICIPATION**

Each Participating Program will execute an Assurance of Compliance certifying they meet the Eligibility to Participate Criteria outlined by the Foundation. Meeting the criterion is a condition precedent to the receipt of each distribution.

It is anticipated that the Participating Programs outlined above will remain eligible for the campaign unless it is determined that there are quality issues, or the program does not demonstrate a commitment to collaborative fund development.

The majority of the Participating Programs are annual grantees of the Michigan State Bar Foundation and provide annual grantee reports to the MSBF. The Participating Programs that are not annual grantees of the MSBF will be asked to provide a report of services including information about services provided, good client stories and an annual financial audit. MSBF, as part of its annual grant process, periodically performs peer reviews of programs.

The success of a centralized campaign is to further access to justice for low-income people and families in the state; its success is best met with full and enthusiastic participation from the Participating Programs. Participating Programs are expected to fully engage in the policies and guidelines outlined herein. They will need to demonstrate a commitment to collaborative fund development and community outreach to continue to be eligible to participate in the collaborative campaign. Following are some examples of a commitment to collaborative fund development:

1. Positively messaging the collaborative campaign, including the use of common branding;
2. Assisting in the preparation of materials by reviewing materials created and providing updated information to include in the materials;
3. Attending fundraising committee meetings and ATJ Fund events; and
4. Helping assure that accurate recognition is given to firms and individuals by channeling all attorney donations through the campaign and reviewing draft recognition lists.

If it is determined that a Participating Program is not providing quality services or not demonstrating a commitment to collaborative fund development, the MSBF Board may also determine that the program is no longer eligible to participate in the ATJ Fund.

## **Participating Program Events**

The two main purposes for nonprofit events are to raise money and to raise awareness. The purpose of continuing established events and the creation of new events will be to raise awareness about the programs participating in the ATJ Campaign. Following are principles and considerations for events planned by the Participating Programs:

- All donations and sponsorships from the legal community will be processed as unrestricted gifts to the ATJ Campaign;
- Donors of established events may designate their donations, with amounts being subtracted from distribution amounts (see below for calculation of distribution amounts);
- Ticket proceeds will be processed by the event organizing program, unless the program requests that the MSBF help with processing tickets;
- The charitable portion of the ticket price, if any, from Michigan attorneys, will be processed as unrestricted gifts to the ATJ Campaign;
- Sponsorships paid directly to a Participating Program from outside the legal community will not be funneled through the ATJ Fund;
- Specialty events, such as anniversary celebrations or capital campaigns, will be planned by the Participating Programs and programs are encouraged to solicit sponsorships from relationships outside of the legal community; and
- Advertising and donation materials need to be approved by the Michigan State Bar Foundation.

#### **FUNDRAISING PARTICIPATION AND SOLICITATION MATERIALS**

The ATJ Campaign will be fundraising within the legal community, namely licensed attorneys within Michigan and law firms and legal departments. To avoid confusion by donors and to have a collaborative fundraising effort that eliminates the need for programs to compete for donations, all solicitations and fundraising events will be a collaborative and coordinated effort between the Michigan State Bar Foundation and the Participating Programs.

The ATJ Campaign will not rely on events as a major fundraising stream, however, the ATJ Campaign recognizes the need to showcase the impact of civil legal aid in Michigan. Activities and opportunities will be determined by the ATJ Campaign fundraising committees, and if the Participating Program agrees, may include transitioning current events to the ATJ Campaign. The committee will work together to plan events and activities with the MSBF taking the lead on planning, coordinating and paying the cost of the events. It is important that Participating Programs are involved in the events so that their work is highlighted to the legal community. These activities may include attending events to raise awareness about civil legal aid, law firm presentations, and meeting with donors.

Participating Programs will utilize common language approved by the MSBF to direct donations to the ATJ Campaign on their websites, newsletters and other materials where appropriate. The MSBF will create solicitation materials for the ATJ Campaign and rely on Participating Programs to provide information in their grant reports and as requested to highlight their work and accomplishments.

## **DISTRIBUTION**

Distribution of ATJ Fund operations contributions which the Foundation receives during the calendar year will be according to a distribution plan approved by the MSBF Board, based on poverty population and the current needs of vulnerable populations. Distribution is designed to create a legal services delivery system throughout the state that addresses regional services for low-income individuals and statewide strategic plans for distinct communities. ATJ Campaign programs are encouraged to collaborate and cooperate regarding distribution amounts.

Thirty percent (30%) of ATJ Fund operations contributions which the Foundation receives during the calendar year shall be distributed to statewide programs and seventy percent (70%) shall be distributed to regional programs. The initial distribution percentage for each program is included in the attached chart. Absent a determination that the program is not eligible for participation (see eligibility criteria above), the distribution percentages will remain in effect as outlined below.

The regional distribution percentages are based on 125% of the federal poverty population (based on the 2012 American Community Survey 5-year Estimate at 125% of poverty level with a 2010 midpoint) and will be reassessed every three years, beginning in 2019. Each reassessment will be based on the most recent American Community Survey 5-year Estimate at 125% of poverty level which is available as of January 1 of the year in which the reassessment is made.

The statewide programs will receive 30% and how that amount is distributed will remain in effect for 5 years. After the initial five years, distribution amounts for the statewide programs will be reviewed every three years by the Steering Committee and the Michigan State Bar Foundation. If all programs do not reach agreement about distribution, the MSBF Board will decide the amounts.

Information about donations and distributions amounts will be shared with the Steering Committee and local fundraising committees so that the committees can assess the success of the campaign.

## **DONATIONS AND DESIGNATIONS**

In order to have a true statewide fundraising effort for civil legal aid, Participating Programs will direct donors from the legal community to make contributions to the ATJ Campaign and agree not to solicit designated gifts. Although donor designations are discouraged, donor designations (including non-ATJ Fund donations made by attorneys, law firms, and corporate legal departments directly to the program and ATJ Fund designated endowment gifts), unless otherwise noted below, will be honored and will be subtracted from the program's distribution amount.

Unique Gifts – Unique gifts include planned gifts and cy pres awards. Planned gifts that are realized upon the death of the donor, that are received by the ATJ Campaign and designated to

a program or received directly by a program, will not affect distribution amounts. Cy Pres awards received directly by a Participating Program will not be subtracted from distribution.

Unique gifts, not otherwise restricted, received for statewide operations by the ATJ Campaign, up to a cumulative annual total of \$500,000, will be distributed according to the established distribution formula. When the cumulative total exceeds \$500,000 in a calendar year, MSBF will determine the best way to distribute the amount above \$500,000 and assess options such as grant processes or a multi-year spending plan. The options will remain consistent with the general purpose of the Access to Justice Campaign and MSBF will seek input from the Participating Programs.

State Bar of Michigan Sections --- The ATJ Campaign will not actively solicit donations from SBM Sections. If a section chooses to donate through the centralized campaign, their donation will be recognized. Sections might host joint clinics or pro bono opportunities with the participating programs and the ATJ Campaign encourages this collaboration. Grants and donations received from the section are not considered gifts from the legal community and will not be subtracted from distributions. However, Participating Programs should discourage and not participate in campaigns or requests by sections to ask their member to donate specifically to a Participating Program. Donations by section members directed specifically for a Participating Program will be subtracted from distribution. When appropriate, Participating Programs should encourage sections to promote members to make an annual contribution through the ATJ Campaign.

Local Bar Associations – Grants from local bar associations or local bar foundations will not be considered gifts from the legal community and will not be subtracted from distribution. Participating Programs should discourage and not participate in campaigns or solicitations by local bar associations to ask their members to donate specifically to benefit a Participating Program. Donations by members directed specifically for a Participating Programs will be subtracted from distribution. When appropriate, Participating Programs should encourage local bar associations to promote members to make an annual contribution through the ATJ Campaign.

Major Gifts - If any of the Participating Programs are planning a capital campaign, the Steering Committee will discuss and recommend policies related to capital campaigns. If a donor from the legal community would like to make a major gift for a specific project that does not affect their annual contribution amount, a participating program should reach out to MSBF to discuss the opportunity. A subcommittee comprised of MSBF staff and a few Participating Programs will be developed to respond to these questions on a case by case basis in an expeditious manner, balancing the purpose of a centralized effort to increase annual resources throughout the state with the opportunity to receive a major gift from a donor to implement or expand a unique project. The subcommittee will determine whether the donation will be subtracted from distribution amounts. The subcommittee will track requests and share decisions at the regularly scheduled ATJ Fund Participating Program meetings.

## **HOLD HARMLESS AMOUNTS**

The purpose of creating hold harmless distribution amounts is to acknowledge established fundraising efforts and protect the investment that Participating Programs put into an infrastructure for fundraising prior to the launch of the centralized campaign. Additionally, hold harmless amounts show donors that legal aid programs, to whom they have designated their donations in the past, are not at risk of receiving less under the centralized model.

Hold harmless amounts will be set by MSBF at amounts designated to Participating Programs in 2017. Hold Harmless amounts will be in effect until the campaign has raised more than the hold harmless provisions, not taking into account unique gifts such as cy pres awards, for each Participating Program for three consecutive years. Participating Programs will need to demonstrate a commitment to collaborative fund development and community outreach, as defined above, to continue to take advantage of the hold harmless provision.

While hold harmless amounts are in effect, the programs will receive the greater of the program's hold harmless amount or the amount pursuant to the distribution formula.

### **RECOGNITION**

Recognizing the financial and pro bono contributions of Michigan attorneys is important to the Michigan State Bar Foundation, the State Bar of Michigan and the legal aid programs. The ATJ Campaign will recognize attorneys, firms and corporate legal departments for their financial donations. To assure that the list is accurate, and that firms and attorneys receive statewide recognition, all Participating Programs will make sure that donations are given through the ATJ Campaign.

### **OTHER PROGRAMS**

There are other programs in Michigan that provide valuable legal services to specific client populations, and many of these programs work in collaboration with legal aid organizations. The ATJ Campaign values the efforts of these other programs and recognizes their important contributions to access to justice in Michigan. However, the policy of the ATJ Campaign is to limit distribution to the Participating Programs outlined above.

*Amended by the Board of Trustees on June 16, 2021*