November,  2019

Dear MMMA Member:

On behalf of the Legal Assistance Fund (LAF) Committee, I want to provide you with some background about what our Committee does and encourage as many MMMA members as possible to participate in calendar year 2020. I also want to highlight some substantive changes that have been to the LAF to make it easier – and cheaper! – for MMMA members to join.

The LAF was created in 2012 to provide participating MMMA members with a way to seek financial assistance to help with the defense of lawsuits or administrative actions against them in connection with the performance of their duties and responsibilities. Coverage under the LAF applies as long as the action the member is being sued/investigated for was done in the good faith performance of his or her duties and is not in conflict with any of the MMMA’s recently updated Bylaws, Policies & Procedures.

It’s important to note that if an Active Member’s contract is not renewed, in accordance with the terms of that Member’s contract, this type of action is not covered by the Fund. However, the negotiation of an Active Member’s severance agreement is eligible for coverage and consideration by the LAF Committee. In addition, other legal actions not covered by the LAF include criminal actions or torts.

The LAF is overseen by a 5-member committee made up of MMMA members who participate in the program. Our duties and the procedure we follow when a claim is submitted are highlighted on the attached Rules and Regulations for the LAF.

During the first 4 years of the LAF’s existence, we did not receive a single claim, but 2017 – 2019 have been active years. The LAF Committee received two formal claims during this period and eight other MMMA members contacted us about potential issues, but because the eight potential beneficiaries were not members of the LAF, their situations could not be considered. The two members who did file claims after their contract was either discontinued in the midst of its term or not renewed properly were eventually reimbursed for a significant portion of their personal legal expenses from the LAF.

Recently, the LAF proposed several changes to improve the Rules & Regulations and encourage greater participation. We received unanimous support from the Executive Committee to clarify what is and isn’t covered by the Fund, lessened the fee for joining the Fund, and clarified how a member’s application would be handled.
To encourage greater participation, we have instituted a new requirement that no MMMA Active Member can have access to any MMMA pro-bono legal advice or assistance unless the Member is a current member of the Fund. The one exception to this is an Active Member may have their first employment contract with a community reviewed by the MMMA’s pro-bono legal adviser without being a member of the Fund, but any future pro-bono advice will only be provided if the Active Member is a current member of the Fund. In addition, our pro-bono legal advisers will strongly advise all Active Members to join the Fund. The number of legal advisers is also being expanded to provide more convenience to all areas of the state, especially where some firms may already represent your community in an official capacity as Town Counsel.

Participation in the LAF is completely voluntary and the annual contribution amount is set at 0.1 percent of a member’s base salary (0.001) with a new, maximum contribution amount of $100. This new $100 limit was one of the primary steps the LAF Committee recommended to the Executive Committee to increase membership.

In addition, thanks to Denise Baker’s efforts, we will be able to submit payments to the LAF via Pay Pal or personal check. A link has been added to the MMMA website to connect you to Pay Pal to submit your LAF membership payment.

Throughout the existence of the LAF, MMMA Pro-Bono Counsel D. Moschos has provided us with sage advice about how the program and its Rules and Regulations could be improved. Most importantly, D. has recommended that we set a goal for the Fund having a minimum balance of $100,000 - $150,000. Right now, our balance is approximately $20,000 with a current participation rate of less than 10% of MMMA members so we have a long way to go to meet our goal.

I would strongly encourage you to consider contributing to the LAF as none of us know when the resources of the LAF might be needed. The past three years have shown the benefits of participating in the program are real, make a difference when you need it the most, and are not available to you if you don’t participate. The LAF also provides a way to help a colleague going through a difficult employment separation process. By participating in the LAF we create a type of insurance policy for our fellow members to offset their legal expenses, even though we may not ever need it ourselves.

Please consider joining the LAF for calendar year 2020 by the December 20 deadline. Thank you!

Sincerely,
Bud Dunham, Sandwich Town Manager
LAF Committee Chairman
1. **Purpose of These Rules and Regulations** – The MMMA Executive Committee has created a Legal Assistance Fund (LAF) to provide financial assistance to Active Members in the defense of certain suits or administrative actions against them in connection with the performance of their duties and responsibilities for a municipality in Massachusetts.

The legal action must be one in contract or involve an investigation or disciplinary action against a Member in connection with the good faith performance of his or her duties and responsibilities and not in conflict with the MMMA Bylaws, Policies & Procedures.

If an Active Member’s contract is not renewed, in accordance with the terms of that Member’s contract, this type of action is not covered by the Fund. The negotiation of an Active Member’s severance agreement is eligible for coverage and consideration by the LAF Committee.

Legal actions not covered by this legal assistance fund shall include criminal actions or torts in the nature of criminal actions or activities that may be covered by the indemnity provisions of MGL Chapter 258 sections 9 and 13.

The purpose of these Rules and Regulations is to provide MMMA members with an understanding of how to access the Fund.

2. **Definitions** – For the purpose of these Rules and Regulations, the following terms are defined:

- **Active Members**: An Active Member is any person who is currently a city manager, town manager, town administrator, executive secretary, administrative assistant, other appointed chief administrative or executive officer, or any assistant/deputy or assistant to a city manager, town manager, executive secretary, administrative assistant or other appointed chief administrative or executive officer of a municipality, provided the municipality is a full member in good standing of the Massachusetts Municipal Association (MMA), and the individual is a MMMA member and conforms to the MMMA or ICMA Code of Ethics and the MMMA Bylaws, Policies and Procedures.

For the purposes of these rules and regulations, retired members who request assistance from the Legal Assistance Fund as a result of their employment as an Active Member, shall be considered eligible for assistance from the Legal Assistance Fund.

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1 The Committee may waive this requirement.
Legal Assistance Fund: The ‘Fund’, will be funded by the voluntary contributions by Active Members, held in a separate MMMA bank account, and used for the purposes outlined in the MMMA’s Legal Assistance Fund policy.

Legal Assistance Fund Committee: The ‘Committee’ as created by Section III of the Legal Assistance Fund policy approved by the MMMA Executive Committee.

3. Application Process – Members wishing to access the Fund shall complete the form found in Attachment A of these Rules and Regulations. This form shall be made available on the Association’s Website. Completed forms shall be forwarded to the MMMA’s administrative staff professional at the MMA, who will promptly forward the request to the Committee.

4. Criteria for Determining Eligibility for Financial Assistance – Assistance from the Fund shall be limited to Active Members of the MMMA, as defined above.

It is the intent of this program that Active members of the MMMA who wish to participate in this program will make a voluntary contribution each year, unless the Fund has a sufficient balance and the Executive Committee waives the contribution amount in a particular year. Active Members of the MMMA who have not contributed to the Fund are not eligible to participate in this program. Active Members, who may have contributed to the Fund on occasion but not on a consistent basis, may participate in this program solely at the Committee’s discretion.

5. Criteria for Determining Amount of Financial Assistance Provided: The Committee shall use the following criteria in granting assistance from the Fund.

   a. Amount available in fund – The Committee will consider the balance in the fund in determining the granting of assistance. The Committee may choose to grant an applicant an initial amount of financial assistance, then grant additional financial assistance in a subsequent year when there are sufficient funds are available and the Member has justified the request.

   b. Other pending requests – The Committee will consider all existing or likely requests for assistance from the Fund in making its determination.

   c. Number of years Member contributed to the Fund – The Committee shall consider the number of years a Member contributed to the Fund in determining the amount of assistance granted.

   d. Total amount of Member’s estimated legal costs – The Committee may consider the Member’s estimated legal costs in determining the amount of assistance from the Fund. The Committee may require a copy of the invoice(s) of the Member’s actual incurred legal costs or retainer be provided to the Committee in order to receive payment to be issued from the Fund.

   e. Previous requests for assistance by Member – The Committee may consider previous requests from the Member for assistance from the Fund in determining the amount of financial assistance to be granted.

   f. The applicant and application meets the requirements of these Rules and Regulations.
In response to an application for assistance from the Fund, the decision of the Committee and the amount of assistance is discretionary, final, and not appealable.

6. **Criteria for Repayment of Funds by a Recipient**
   a. Court judgment in favor of Member – Members who received assistance from the Fund and who subsequently receive a Court judgment shall reimburse the Fund, in full or pro-rated, depending on the amount of the Court judgment. Said payment shall be returned to the Fund account.
   b. Reimbursement of legal fees by Member’s community – Members who received assistance from the Fund and who subsequently receive a reimbursement from their community for legal fees related to the matter, shall reimburse the Fund, in full or pro-rated, depending on the amount of the municipal reimbursement. Said payment shall be returned to the Fund account.

7. **Voluntary Fund Contribution Schedule**
   a. Annual Approval by Executive Committee – Prior to the mailing of the annual membership dues notice, the Committee shall provide the MMMA Executive Committee with a recommendation for the annual voluntary Fund payment amount. The annual contribution notice shall be sent to all Active Members on a separate form.
   b. Payment by Member – The Legal Assistance Fund is for the benefit of the Active Member, not the member’s community. As such, the voluntary contribution will be made personally by the Member and the benefit will be provided to the Member, regardless of which community he/she is working for at the time of a request for assistance from the Fund. This shall not preclude an Active Member from negotiating with their community a reimbursement for participation in this program.
   c. Fund Contribution – The annual voluntary Fund contribution shall be 0.1 percent of base salary (0.001) capped at a maximum of $100 per year.

8. **Other Fund Contributions** – The Fund shall also be allowed to receive other voluntary contributions by Members, supporters of the MMMA, or from fund-raising efforts of the MMMA or the Committee.

9. **Committee Procedures**
   a. Meeting schedule – The Committee shall meet promptly following an application for assistance from the Fund. Committee Members may request additional information beyond what is provided on the Member’s application form. MMMA Counsel may contact the applicant’s attorney for additional information and clarification.
   b. Confidentiality – Applications for assistance from the Fund shall be sent only to the MMMA staff professional at the MMA to insure that the application is not subject to the public records laws. Summary information regarding requests for assistance from the Fund will be shared with the MMMA Executive Committee on a regular basis.
   c. Meeting Records – The MMMA staff professional at the MMA will maintain Committee meeting notes and records on a confidential basis. Meeting notes and
records shall be retained for seven years following the close of the Members’ application.

10. **Access to Pro-Bono Legal Assistance through MMMA** – No MMMA Active Member shall have access to any MMMA pro-bono legal advice or assistance unless the Member is a current member of the Fund. An Active Member may have their first employment contract with a community reviewed by the MMMA’s pro-bono legal adviser without being a member of the Fund, but any future pro-bono advice will only be provided if the Active Member is a current member of the Fund. Pro-bono legal advisers will strongly advise all Active Members to join the Fund.

11. **Retention of Attorney** – It is the Member’s responsibility to retain his/her personal attorney, who is a member in good standing with the Massachusetts Bar.

12. **Approving and Amending these Rules and Regulations** – These rules and regulations may be amended from time to time by the MMMA Executive Committee, upon the request of the Committee.

Approved by the MMMA Executive Committee:

President: ___________________________ Date: _______________


Application
Legal Assistance Fund
Request of Assistance

Member’s Name: ______________________________________________________

Member’s Title and Community: _________________________________________

Preferred Mailing Address: ____________________________________________

Preferred Email Address: _____________________________________________

Preferred Phone Number(s): ____________________________

Description of Dispute with Community: (Attach additional page, if necessary)

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

Name of Court or Administrative Agency matter is before (if applicable):

____________________________________________________________________

(Attach all pleadings, notices, etc. of the proceeding)

Amount of Legal Expenses Incurred or Anticipated: _______________________

Member’s Attorney and Contact Information (if applicable): __________________

____________________________________________________________________

By signing this Request of Assistance, the Member certifies that the Legal Assistance Fund
Rules and Regulations, the MMMA and ICMA Code of Ethics, and the MMMA Bylaws,
Policies and Procedures have been adhered to and honored.

Signature: ____________________________________________________________

Date: _________________

Mail to: Denise Baker
MMA
One Winthrop Square
Second Floor
Boston, MA  02110
(Mark “Confidential” on envelope)
Legal Assistance Fund
Decision by Legal Assistance Fund Committee

Member’s Name: ____________________________________________

Date Reviewed by Committee: ________________________________

Committee Members Present: Full Members  Associate Members
________________________  __________________________
________________________  __________________________
________________________  __________________________
________________________  __________________________

Amount of Assistance Granted: Initial Assistance: $__________
Subsequent Assistance: $________________

Summary of Reason(s) for Award, or Denial of Application: ________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

Approved: ____________________________________________
Chairman, Legal Assistance Fund Committee

Date: ________________

Retention: To be retained by the MMMA for seven years from the close of this application.