

Answers by Maura Healey- Democratic Candidate for Attorney General

Questions for Attorney General Candidates:

(Note: Questions 1-3 can be answered with a yes or no, but please feel free to elaborate beyond a one-word answer)

1. MALC has had a great working relationship with the current AG's administration. Would you continue this open door policy to MALC and by extension to the arts and creative economy communities?

Absolutely. I am proud to have been a leader over the past seven years of an AG's office that enjoyed an open and productive relationship with MALC and the artistic community. I will continue and build upon that relationship as Attorney General.

2. Labor Issues impact artists of all disciplines. The current AG's labor team has been very supportive in ensuring artists of all disciplines are not exploited.

As Chief of the Business and Labor Bureau at the Attorney General's office, I led the Fair Labor Division and our work to enforce wage and hour laws, including the minimum wage law, payment of wages law, the employee misclassification law, and other worker protections. I saw firsthand how people without a voice or strong bargaining position are vulnerable to exploitation. I also saw how vital a strong Attorney General can be as a leader in fighting exploitation on so many fronts. As a civil rights attorney, I have always viewed the Attorney General as the people's lawyer. Protecting people's rights is our mission.

a. One key labor issue facing our community is the treatment/exploitation of adjunct professors.

Would you be willing to work with MALC and other stakeholders to better address this issue?

Yes, I would be eager to work with MALC and other stakeholders on this issue. I know that many adjunct professors work packed schedules, often at multiple campuses, without the benefits of full-time employment. These arrangements can be difficult for faculty, especially those pursuing their own careers as artists, and they make it harder for students to benefit from academic advising and mentorship. As Attorney General, I would work with public and private universities to ensure compliance with applicable labor laws and to develop approaches that better recognize the value of adjunct faculty. I will also pursue

investigative and enforcement actions to stop abuse of adjunct faculty and other workers susceptible to misclassification and abuse.

b. The Massachusetts Independent Contractor 2004 law change has been an issue that has been negatively impacting artists of all disciplines and those in the Creative Economy. This law change made it next to impossible for people to be classified as independent contractors in this State. Once you are classified as an employee, you do not own or control your intellectual property. It is the property of the employer. Many artists of all disciplines and others need and want to be classified as independent contracts to retain total control over their intellectual property and by extension their livelihoods. MALC, along with Labor and the AG's office, have been trying to solution to this issue.

Would you and, by extension, your office work with MALC, our friends in labor and other stakeholders, to craft a solution to this key issue?

Yes. For artists, your intellectual property is your livelihood, and I know that the 2004 law hasn't worked for the artistic community and has made Massachusetts an unusually difficult state to work as an artist, even without enforcement action by the Attorney General. We need to promote our creative economy, and we shouldn't shoot ourselves in the foot by making it harder for Massachusetts artists to contract with out-of-state clients and enter into contracts under which they will retain the intellectual property rights to their creative work.

I'm well aware of the logistical challenges of creating a registry or certification process for artists, and to the reality that many artists don't work only out of a home office or other fixed location. As Attorney General, I would work with MALC, labor leaders, and other stakeholders to craft and implement a solution that protects both the intellectual property and employment rights of artists in a way that is sensitive to the unique nature of their work.

Of course, too often employers will misclassify employees as independent contractors in order to evade worker protections and deny benefits. S. 875, appropriately, provides that its exception to employee classification does not apply when an artist has been coerced into operating as an independent business. As Attorney General, I would ensure that any change to the law meant to enhance the options of artists isn't used to force artists or other workers into less favorable employment terms.

3. Intellectual Property is the 21st frontier and needs safeguarding. Identity theft is

one example that most are familiar with. Copyright protection is critical for artists of all disciplines.

a. Would you and your office work with MALC to better ensure and advocate that copyright protection (as well as the monetary and moral rights that go with it) is upheld and strengthened in our changing and expanding digital age?

In an era when a song, video, or graphic can be copied a thousand times and sent around the world with the press of a button, it is all the more important that the work of artists is respected and their intellectual property rights are understood and enforced. If artists can't protect their rights in their creative work, they won't be able to make a living producing it, and the result will impoverish our economy and our culture.

This starts with education — we need to make sure people understand the protections that apply to the work of artists, and the Attorney General can play an important role in that, working in partnership with the artistic community. But the Attorney General must also enforce copyright laws against those who seek to exploit artists, particularly businesses seeking to exploit the work of artists without fair compensation. As Attorney General, I will be an ally and advocate for artists in Massachusetts working at both the state and federal level to protect the creative products of their labor.

b. Would you use the power of your office to promote the benefits of copyright and sponsor public education on proper use and etiquette surrounding creative works of all kinds?

Absolutely. The Attorney General can play an important role in educating the public, business, and government agencies about how to properly attribute and compensate artists for their use of their work. I understand that this work isn't purely about stopping improper uses — as a Commonwealth, we *want* governments, business, and individuals using and enjoying artistic works, and we want to promote the creative economy. By promoting this understanding, the Attorney General can incent greater use of artistic works (with appropriate compensation) and help grow the creative economy.

c. Would you and your office support state legislation that protects the commercial value of artists, entertainers and other notable personalities? This would allow a person and their family to protect the use of a person's images or personality in advertising, etc.. Thirteen states have enacted statues that specify a transferable right to publicity that survives death.

Digital editing technology makes it easy to create misleading impressions of support

for commercial products from well-known artists or other known figures, and statutory protections in Massachusetts do not apply postmortem. As Attorney General, I would work with the artistic community and other stakeholders to implement legislation that protects the value of deceased artists from commercial exploitation of their image. S. 2022 rightly exempts news reports and creative uses, and I would want to ensure that such a law, in its design and enforcement, doesn't impair legitimate speech and artistic expression.

4. Is there anything else you would like to share in regards to your policy and/or platforms that directly impact artists of all disciplines and by extension the arts and creative economy communities?

As Attorney General, I would be attentive to the rise of for-profit colleges catering to art students. I have put forward an aggressive plan to use the powers of the Attorney General to shut down abusive for-profit schools, including art schools, to provide little training or education, while loading students up with debt. Our strong arts programs in Massachusetts, which provide employment for many independent artists, should not have to compete with sham programs that enrich corporate backers on the backs of vulnerable student borrowers.