

AGENDA ITEM

DATE: June 25, 2012

TO: Members, Stakeholder Relations Committee

FROM: Judge Brenda Harbin-Forte, Chair, Judicial Summit Planning Committee and former Chair, Council on Access & Fairness
Patricia Lee, Special Assistant for Diversity & Bar Relations

SUBJECT: Judicial Summit Report and Recommendations

EXECUTIVE SUMMARY

In June 2006 the first statewide summit on diversity in the judiciary was convened by the State Bar of California and the Judicial Council's Access and Fairness Advisory Committee, as part of the State Bar's 2006 Spring Summit on Diversity. At that event, California judicial officers, State Bar representatives, the Governor's Judicial Appointments Advisor, members of the Legislature, diversity and specialty bar associations, and key stakeholders involved in the judicial appointments process gathered to examine the status of racial and ethnic diversity on the bench primarily, and gender diversity secondarily. However, since the 2006 summit, issues continued to emerge regarding the need to increase the diversity of the judicial applicant pool and the need for greater transparency in the appointments process. Further, in recognition of California's changing demographics since 2006, it became increasingly important that our judiciary reflect the state's growing diversity and that the bench and bar participate in a further dialogue aimed at achieving greater judicial diversity and increased public trust and confidence in the judicial system. Therefore, five years after the first summit, the Judicial Council and the State Bar of California convened a second summit on September 7, 2011. The Summit goals were to evaluate achievements since the 2006 Summit, to focus on the current status of judicial diversity in California, to identify best practices for increasing diversity on the bench, to develop additional initiatives for achieving greater judicial diversity, and to create a 5-year action plan for further accomplishments. (The Report and Recommendations from the Summit are attached.)

BACKGROUND

In June 2006 the first statewide “Summit on Diversity in the Judiciary: *Continuing a Legacy of Excellence*” was convened by the State Bar of California and the Judicial Council’s Access and Fairness Advisory Committee, as part of the State Bar’s 2006 Spring Summit on Diversity. At that event, California judicial officers, State Bar representatives, the Governor’s Judicial Appointments Advisor, members of the Legislature, diversity and specialty bar associations, and key stakeholders involved in the judicial appointments process gathered to examine the status of racial and ethnic diversity on the bench primarily, and gender diversity secondarily.

The purpose of the 2006 summit was twofold:

1. To further Goal 1 of the judicial branch’s strategic plan, Access, Fairness, and Diversity, by collaborating with justice system partners to identify, recruit, and retain qualified appellate court justices, and trial court judges who reflect the state’s diversity and by collaborating with law schools, the State Bar, local bar associations, and specialty bars to achieve greater diversity in the legal profession, and
2. To implement provisions of the State Bar’s strategic plan, goal 2, strategy 4, by undertaking activities to enhance the diversity of the legal profession and to eliminate bias in the practice of law.

The 2006 Summit inspired several changes in the judicial appointments process and the enactment of legislation requiring the Governor, the State Bar and the Administrative Office of the Courts annually to collect and release to the public demographic information on the ethnicity and gender of judicial applicants, appointees and sitting judges and justices. The legislation, SB 56 (Dunn, 2006), which is codified at Government Code section 12011.5, served to increase the transparency of the appointments process.

Following the summit, the State Bar’s Diversity Pipeline Task Force’s Courts Working Group issued its report in March 2007, identifying specific challenges and recommendations for addressing the barriers to achieving judicial diversity in California. (see <http://cc.calbar.ca.gov/LinkClick.aspx?fileticket=OXQ5slTWCvw%3d&tabid=2159>).

However, since the 2006 summit, issues continued to emerge regarding:

- the formal applicant evaluation process,
- the role of the local selection committees established by local bars and other groups,
- the growing disparity between the state’s population that is ethnically and gender diverse and a bench and bar that are less so,

- obtaining comprehensive and consistent demographic data from law schools, the Administrative Office of the Courts, the State Bar, the Commission on Judicial Nominees Evaluation (JNE), the Governor's office, and the private sector; and
- the need to increase the recruitment and appointments of judicial candidates with disabilities and those from the lesbian, gay, bisexual and transgender communities.

In recognition of California's changing demographics since 2006, it became increasingly important that our judiciary reflect the state's growing diversity and that the bench and bar participate in a further dialogue aimed at achieving greater judicial diversity and increased public trust and confidence in the judicial system.

Therefore, five years after the first summit, the Judicial Council and the State Bar of California convened a second summit on September 7, 2011 to:

- evaluate achievements since the 2006 Summit,
- focus on the current status of judicial diversity in California,
- identify best practices for increasing diversity on the bench,
- develop additional initiatives for achieving greater judicial diversity; and
- create a 5-year action plan for further accomplishments.

2011 JUDICIAL SUMMIT:

At the September 7th summit, which was held at the Administrative Office of the Courts, in San Francisco, more than 75 justices, judges, other judicial branch leaders, bar leaders, and law school deans or their designees received a status report on the current level of diversity in California's trial and appellate courts, reviewed accomplishments since the 2006 summit, examined ongoing challenges to achieving a diverse judiciary, and made recommendations on how to further the goal of a more diverse bench.

The program was guided by Judge Brenda Harbin-Forte, Chair of the 2011 Judicial Summit Planning Committee, State Bar President William Hebert, Justice James Lambden, Chair of the Judicial Council's Access and Fairness Advisory Committee, and Judge Erica Yew, Judicial Council member. Morning and afternoon panel discussions featuring distinguished leaders of the bench and bar focused on identifying challenges in achieving a judiciary that reflects the population of California. Participants acknowledged that while some progress has been made, more diverse appointments are needed in order for the bench truly to reflect California's rich diversity. An action plan for continuing work on this important goal was the desired outcome of the summit.

Six breakout sessions, facilitated by judges and bar leaders, focused on areas where additional strategies might achieve greater results, including:

- The judicial appointments and elections process
- The leaky pipeline resulting from low numbers of ethnic minorities in law schools
- Judicial diversity data collection and accessibility

- The level and types of outreach and education needed to encourage more persons to enter the legal field and seek appointment to the bench
- Issues with the online judicial application process
- The perceived glass ceiling for women and ethnic minorities when it comes to judicial assignments

Following the breakout sessions, the participants reconvened to review and comment on the recommendations from the sessions which included:

- increasing outreach to potential candidates for judicial appointment,
- mentoring of candidates and new judges,
- educating students about careers on the bench and resources for law school tuition,
- improving data collection,
- emphasizing the important role of a judicial appointments secretary,
- improving the accessibility of the online judicial appointment application,
- providing leadership training for judicial administrators, and
- providing more transparency in judicial assignments.

NEXT STEPS:

A review of the current demographic information of the courts reveals that much work remains to be done if we are to achieve the goal of having a judiciary that reflects California's richly diverse population. Although a seemingly daunting task, the impressive list of accomplishments since the 2006 summit should provide a level of confidence that we can attain our goal. (See ATTACHMENT A for a copy of the Summit Report and Recommendations for a summary of the accomplishments.)

Key to any level of future success will be a formal commitment from the judicial branch and the State Bar to continue their historic collaborative efforts to increase diversity in the legal profession and the judiciary. To facilitate this ongoing endeavor, a joint informal collaborative working group will be established consisting of members of the State Bar's Council on Access and Fairness and the Judicial Council's Access and Fairness Advisory Committee. The informal working group will invite participation from the Governor's advisor on judicial appointments, legislative staffers as designated by members of the legislature, representatives from Administrative Office of the Courts' Office of Governmental Affairs, the presidents or chairs of the African-American, Asian-Pacific Islander, and Latino judges associations, local, ethnic and specialty bar association representatives, practicing attorneys, law schools, and other key stakeholders. The informal working group will prioritize the recommendations contained in the attached report and set goals and timetables for completion.

FISCAL / PERSONNEL IMPACT:

No general fund allocations will be used for this project. Activities will be covered by voluntary contributions to the Elimination of Bias/Bar Relations (EOB) Fund. Funds are allocated in the current EOB budget to initiate follow up activities.

RULE AMENDMENTS: None**BOARD BOOK IMPACT: None**