

Date: June 28, 2013

TO: Members, Board Nominations and Appointments Committee

FROM: Audrea J. Golding, Chair, Council on Access & Fairness (COAF)
Patricia Lee, Special Assistant on Diversity & Bar Relations

RE: Council on Access & Fairness Summary of 2012 Activities and Accomplishments

The Council on Access & Fairness (COAF) serves as the diversity “think tank” on behalf of the State Bar of California and focuses on programs and initiatives designed to further the State Bar goals and strategies to increase diversity in the legal profession and judiciary. As part of its ongoing planning process, the COAF convenes annual strategic planning sessions and creates annual work plans that guide the ongoing activities of the COAF. COAF monitors the implementation of its work plans and conducts a year-end assessment that is reviewed at each planning session. The COAF structures its work along the segments of the diversity pipeline and accomplished the following:

EARLY EDUCATION PIPELINE (Preschool through high school):

California Law Academy Strategic Task Force (CLAS): In 2010 the California Department of Education and the State Bar of California partnered to create the first high school law academies in California, governed by the California Partnership Academy statutes. CLAS was created to convene representatives from the legal profession and key stakeholders in various counties to help create the local law academies. As a result of the partnership, the following law academies were created: McClatchy and Florin High Schools (both in Sacramento), Wilson High School (Los Angeles), Crawford High School (San Diego), and De Anza High School (Richmond). Close to 400 students participated in the law academies in the initial year. These students continued into the 11th grade and an additional class of 10th graders entered the academies this year. For the next school year (Fall 2013 to Spring 2014) we will have our first graduating class of seniors in all academies. An additional law academy was created at Cabrillo High School (Long Beach). Also, existing academies in Contra Costa County were converted into law academies at Richmond High School, Kennedy High School (Richmond) and Deer Valley High School (Antioch). We also have teams in Solano County, Santa Clara County and Orange County preparing for the creation of future law academies in 2013.

Martin Luther King, Jr. “I Have a Dream Speech” Celebration: To celebrate the 50th Anniversary of the “I Have a Dream” speech, COAF helped to coordinate an essay contest among the California Partnership Law Academies (described above). As part of the law academy curriculum, students discussed the life and work of Dr. Martin Luther King, Jr. and were asked to write essays about Dr. King’s “dream”, how the speech inspired them and the decisions they are making re their education and career pathway. The essays were to be screened and submitted by the law academy teachers in early 2013.

COLLEGE AND LAW SCHOOL (including bar exam passage)

Commentary re: ABA Law School Accreditation Standards: The ABA Standards Review Committee (SRC) is in a protracted process of reviewing all law school accreditation standards to determine proposed revisions. As part of its review process, the SRC has asked for preliminary feedback from various entities re: specific standards to determine implications of possible proposed revisions. The COAF has offered commentary on those standards that align with the COAF diversity pipeline initiatives, including concrete actions by law schools to demonstrate a commitment to diversity, reliance on the LSAT exam as the only test for law school admissions criteria, support for the requirement of articulated outcomes for law schools, as well as the addition of “multicultural competence as a critical skill for law school graduates, and the addition of specific consideration by law schools for students/faculty/administrators with disabilities and LGBT students/faculty/administrators. Commentary will also be required on future proposals re the bar passage standards and will be forwarded to the ABA in early 2013. Commentary has been shared with State Bar entities and other stakeholders focusing on law school admissions and accreditation. The SRC has been involved in this review process for the past two years and will take approximately another year before the review is complete. Once the SRC has agreed upon its proposed revisions, the proposed revised standards will be issued for official public comment. At that time the COAF will present recommended comments to the Board of Trustees for approval and submission.

US News Law School Rankings: The COAF initiated a dialogue with US News & World Reports in 2010 to recommend that diversity factors be incorporated in the overall ranking of law schools. Concurrent with those discussions, COAF also shared its recommendations and enlisted the support of various diversity stakeholders including the ABA diversity entities, statewide and local bar associations, statewide and national minority and affinity bar associations, and national diversity entities. COAF recently held a meeting with US News editorial staff, General Counsel and Director of Communications to discuss the rationale for including diversity factors and to offer recommendations for specific factors and metrics for consideration by US News. At that time, US News responded favorably to COAF comments and expressed its appreciation for the input from the State Bar of California and the legal profession. US News also indicated its willingness to convene an Advisory Council of key legal profession entities to further identify and recommend diversity factors and metrics for use by US News. After repeated attempts to follow up with US News, we were advised that US News has decided not to form an advisory group to focus on law school rankings at this time. US News indicated that it viewed the issue of diversity metrics as problematic, given the lack of agreement among legal educators on the definition of diversity, standards for measuring diversity and what benchmarks to use for comparison purposes between law schools. Although COAF offered concrete input on these issues, US News is not at the point of considering including diversity

metrics in its overall law school rankings. COAF continues to explore options for ongoing efforts with US news to include diversity metrics.

Dialogues with Law School Deans: COAF initiated dialogues with law school deans throughout the state, to discuss the full range of issues concerning diversity in law school ranging from admissions policies to graduation and bar pass. The goals for the meetings were (1) to conduct a qualitative analysis, gathering information about law school practices and challenges and (2) to promote good practices among law schools on matters that promote access and success for diverse students. Discussions focus on what the law schools are looking for in students and faculty; how schools promote success of diverse students and faculty; and the challenges that are being faced by the schools. COAF also briefed and gathered feedback from the Deans on COAF's ongoing initiatives and identified ways COAF could be of assistance to the schools. To date the COAF has met with deans from USF, Berkeley, Loyola, Hastings, UC Irvine, Southwestern and UCLA. COAF will review summaries from the meetings with the deans and will determine next steps for this project.

Community College Initiatives: COAF has identified the community colleges as a critical segment of the diversity pipeline and has initiated a project to explore the ways COAF can incorporate community colleges into its ongoing diversity initiatives. COAF has convened a community college "think tank" including chancellors from various campuses to provide input on ways that community colleges can participate in and benefit from the pipeline efforts. Following these meetings, COAF decided to focus on the community college level through three efforts: a video project including interviews with successful judges and attorneys who attended community colleges, a "Faculty Champion" project to recruit community college faculty to be trained as pre law advisors and to offer law related curriculum and a 2+2+3 Articulation project among specific Law Schools, four-year universities and community colleges, to identify required curriculum and other standards to ensure a pathway from community college to law school. COAF will continue to work on these efforts through 2013.

Pre Law Tool Kit: A meeting of college pre-law advisors was convened to address the need for resources and support for advisors to provide the full range of information needed by students to prepare for admission to law school. The feedback from the meeting was summarized for further discussion among California pre-law advisors. A final report was issued for distribution among advisors and students planning to attend law school, as well as to other stakeholders. As part of its efforts to meet the needs of Pre Law Advisors and pre-law students, COAF compiled a listing of existing resources and sites that provide step by step information on preparation for and admission to law school. The information will be accessible online by student pre law clubs, students in general, pre law advisors, parents and other representatives/entities needing this information. A video has also been produced featuring diverse attorneys and judges who have entered the legal profession through different pathways, who practice in diverse practice settings, and who can serve as role models for students from underrepresented communities. COAF also participated in the annual Pacific Coast Association of Pre Law Advisors (PCAPLA) to provide information on COAF diversity pipeline initiatives.

LEGAL PROFESSION (recruitment, hiring, retention, advancement)

Statement of Diversity Principles: COAF reviewed and confirmed the State Bar Statement of Diversity Principles (first adopted in 2005) and developed an addendum to provide legal

employers with resources for the creation, maintenance and expansion of their in-house diversity and inclusion programs. The Statement will be finalized for BOT review and will be circulated to legal employers in the key practice settings, including law firms, government/public sector, corporate counsel and public interest entities, as well as to law schools to encourage them to become signatories to the statement and to engage in ongoing efforts to expand the diversity pipeline into the legal profession.

Legal Employer Focus Groups: COAF convened focus groups of key legal employers from all practice settings to learn about the challenges to recruitment, employment, retention and promotion of attorneys from diverse backgrounds; to identify and address the impact of the ongoing economic downturn on diversity efforts; and to identify best practices by employers in changing criteria and approaches used to expand the diversity pipeline. Focus groups were held in San Francisco, Silicon Valley, Los Angeles and San Diego. COAF has prepared a draft report that will be circulated in the Fall 2013. The report will include recommendations and identify model programs to be shared with legal employers as a resource for ongoing diversity programming.

Effective Lawyering Focus Groups and Symposia: COAF consulted with Professor Marjorie Shultz (UC Berkeley Law) and Dr. Sheldon Zedeck (UC Berkeley) about the application of findings from their 10-year study identifying 26 factors for effective lawyering and how to use their testing tools to supplement the LSAT exam in the law school admissions process. During these conversations we recognized the value of the effective lawyering factors in the legal employment setting and developed a plan for sharing the information with legal employers to determine their interest in using the same tools re: recruitment, hiring, retention, evaluation, promotion and ongoing professional development. With assistance from Shultz and Zedeck, COAF conducted focus groups in Los Angeles, Silicon Valley and San Francisco including representatives from private practice, government sector, corporate counsel and public interest offices, as well as in-house diversity and career development representatives. With positive feedback from the focus groups, COAF convened two symposia (at the Los Angeles and San Francisco State Bar Offices) to gather further legal employer feedback. A report was generated summarizing the dialogue and findings and COAF is in the process of identifying “next steps” to generate resources and to engage legal employers in the implementation of this initiative. COAF continues to explore options for incorporating the findings from the Shultz/Zedeck studies at both the law school and legal profession levels for use as supplementary testing options to the LSAT, as well as to expand the traditional criteria used by legal employers in the recruitment, hiring and promotion of attorneys and to incorporate the factors in to ongoing curriculum both at the law school and professional levels.

JUDICIAL DIVERSITY (outreach, recruitment, mentoring)

Judicial Summit: The State Bar, Judicial Council and Administrative Office of the Courts partnered to present the 2011 Judicial Summit as a 5-year follow up to the original Judicial Summit held in 2006. The Summit objectives were to provide a 5-year status report on accomplishments since the 2006 Summit, to identify model programs and best practices, to identify ongoing and new challenges, to develop Initiatives to address the identified challenges, and to create a five-year action plan to achieve greater diversity among the judiciary. A report and recommendations has been issued and a joint working group of the COAF and the Judicial

Council Access and Fairness Advisory Committee will oversee the implementation of the action plan.

Judicial Appointments Outreach and Education: COAF has established a close working relationship with the Governor's Office for ongoing outreach and recruitment of attorneys from diverse backgrounds to apply for judicial appointments. COAF met with the Governor's judicial appointments staff to share data and information on the appointments process, factors considered by the Governor, and a strategy for conducting outreach in particular counties with ongoing vacancies. COAF has co-sponsored judicial appointments workshops and will continue to offer workshops as well as mentoring sessions, with one-on-one feedback from judges and former JNE Commissioners re: the completion of the judicial applications.

Training re: Implicit Bias and Elimination of Bias: COAF has been invited to provide elimination of bias training to the members of the Commission on Judicial Nominees Evaluation for the past two years and to coordinate with the ongoing implicit bias training received by JNE for the past 5+ years. COAF also coordinated an implicit bias training for the Governor's appointments staff. (Note: with the recent legislative mandates for JNE training re bias, these trainings will continue for the future.)

Judicial Qualifications Criteria: COAF's Judicial Committee created a set of resource materials to assist the State Bar Commission on Judicial Nominees Evaluation in the application of Govt. Code 12011.5(d) requiring the State Bar to "consider legal experience broadly" in the ranking of judicial applicants. The materials include a broad range of practice settings and the skills acquired in each setting that are transferable to judicial positions. The materials have been shared with JNE in a recent training sessions and will be distributed to all local, minority and affinity bar associations and other stakeholders that engage in vetting judicial applicants.

Online Application for Judicial Appointment: COAF's Judicial Committee created a set of "Tips" and a Checklist for the completion of the online judicial appointments application. COAF continues to coordinate with the Governor's Office to modify the "Tips" when the application form is changed and to alert the Governor's office when COAF becomes aware of issues impacting the use of the online process. The "Tips" are posted online and are presented during all COAF Judicial Appointments Workshops.

OUTREACH AND EDUCATION:

State Bar Appointments: COAF engages in outreach and recruitment among local and diversity/affinity bars to demystify the State Bar appointments process, to encourage diverse attorneys to apply for appointment and to assist with the completion of the application forms. To facilitate the process, COAF held appointments workshops in Los Angeles (through the Multi Cultural Bar Alliance) and in San Francisco (co-sponsored by the Bar Association of San Francisco) to provide hands-on assistance to potential applicants. Panelists included COAF members, JNE Chair, State Bar Legal Specialization Staff Director, and former State Bar Board members to share their expertise, tips and advice to ensure that applicants submit a compelling and competitive application.

COAF “Road Show”: COAF has created a set of PowerPoint slides that are used to demonstrate the status of diversity in the legal profession and strategies for the elimination of bias. The slide show provides the “case for diversity” and tracks demographic information and other data along the diversity pipeline from the education pipeline, to college and law school, to the legal profession, to the judiciary. The data and slides are made available to various bar associations and other stakeholders who contact the COAF and State Bar seeking such data for their respective diversity discussions and presentations. COAF is engaged in ongoing updates and additions to the slide show re key issues along the diversity pipeline.

State Bar Annual Meeting Programming: COAF presented two successful MCLE programs at the State Bar Annual meeting – one focusing on (implicit bias) with over 200 participants and the other a combination of elimination of bias and ethics also with over 200 participants. Also, the Annual Diversity Stakeholder Forum is held during the State Bar Annual Meeting. The forum provides the opportunity for open dialogue between the COAF and diversity stakeholders and focuses on addressing issues along the diversity pipeline and on ongoing collaboration between the COAF and the various affinity/diversity bar associations and organizations throughout the state. The 2012 program focused on affirmative action issues and the potential implications of the case of *Fisher v. University of Texas* on diversity in the legal profession.

Diversity and Education Pipeline Awards: COAF annually screens all nominations and makes recommendations to the Board of Trustees for the State Bar Diversity Awards, which acknowledge the contributions by an attorney, law firm, bar association and separate organization toward increasing diversity in the profession. COAF also screens nominations and makes recommendations to the Board of Trustees for the State Bar Education Pipeline Award for exemplary work educating students about the legal system and encouraging students to consider a career in the law. COAF also sponsors the Awards Reception during the State Bar Annual Meeting for the presentation of the awards. This past year the awards were presented during the State Bar Annual Meeting at the 11th Anniversary Diversity Awards Reception, with over 300 attendees. Speakers included Chief Justice Tani Cantil-Sakauye and State Bar President Jon Streeter.

RESOURCE MATERIALS:

Access and fairness materials are either posted online at www.calbar.org/AFCouncil and/or are available electronically or in hard copy through the State Bar Office on Access and Fairness Programs. During the year, materials were requested by various local, minority and affinity bar associations, the courts, law schools, high school law academies and other diversity stakeholders for use in training and outreach events (with proper attribution to the State Bar Council on Access & Fairness). Materials were also distributed at COAF sponsored meetings, events and programs. The available resources include:

- Diversity Pipeline Task Force Report (including Model Diversity Programs)
- Statement of Diversity Principles
- Challenges to Practice of Law for Attorneys from Diverse Backgrounds
- Challenges to Practice of Law for Attorneys with Disabilities
- Diversity Pipeline Road Show Slides
- Diversity Pipeline Task Force Courts Working Group Report

- Judicial Diversity Commentary and Resources
- Tips/Checklist on Completing the Online Judicial Application
- Resource Materials to Evaluate Judicial Qualifications Criteria [Govt. Code 12011.5(d)]
- State Bar Appointments Overview and Tips for Applicants
- Brochure: “Want to be a Lawyer?”
- Brochure: “Disability Awareness: How to Accommodate Persons with Disabilities”
- Brochure: “Creating a Model Work Environment for LGBT Individuals”
- Brochure: “Understanding Transgender Law and Transgender Clients”

Note: All Access & Fairness activities are funded through voluntary contributions to the State Bar. No mandatory attorney dues are used for these purposes.