

AGENDA ITEM

TO: Members, Board Committee on Stakeholder Relations

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

DATE: June 28, 2013

RE: Council on Access & Fairness Status Report

BACKGROUND:

The mission of the Council on Access & Fairness (COAF) is to advise the State Bar Board of Trustees on appropriate strategies, consistent with State Bar policies and procedures, that enhance opportunities and advancement in the legal profession for diverse populations, particularly those who have been historically underrepresented. “*Opportunities*” encompasses leadership development and appointments to State Bar entities, as well as initiatives to educate students about the law and career opportunities in the law, referred to as education “pipeline” initiatives. “*Advancement*” encompasses recruitment, employment, retention and advancement in the legal profession. The COAF will also screen candidates for the Annual Diversity and Education Pipeline Awards.

2013 STATUS REPORT:

The COAF engages in annual strategic planning and arrives at an annual work plan which is implemented through its designated committees and working groups. The committees track the main segments of the diversity pipeline including: Early Education, College and Law School, Legal Profession and Judiciary. Ad hoc Committees focus on Appointments and EOB Curriculum. Other Ad Hoc committees that focused on ABA Accreditation Standards, Law School Rankings, Statement of Diversity Principles, and Pre Law Student Clubs have been folded into the appropriate COAF Standing Committees.

Highlights from the 2013 COAF initiatives include the following:

Early Education Pipeline:

California Partnership Law Academies: COAF continues to partner with the California Department of Education (CDE) in the creation of the first California Partnership Law Academies. Law Academies were first created in 2011 and are located in high schools in San Diego, Los Angeles, Long Beach, West Contra Costa County (Richmond) and Sacramento (two sites). Since the inception of the original academies, three other law academies in West Contra Costa County were converted into California Partnership Academies. Two of these academies are located in Richmond and the third is in Antioch. We are also coordinating efforts in Solano County, Orange County and Santa Clara County for the creation of future law academies. We are working with regional advisory boards consisting of stakeholders from the legal profession and school districts, as well as elected officials, local business leaders, community colleges, universities, law schools, and community representatives to provide the support, expertise and resources necessary to secure and maintain CDE funding and other resources for the local law academies and to graduate students who will be employment-ready and/or ready to continue with postsecondary education to achieve their law-related career goals. With the start of the school year in the Fall 2013, we will have the full compliment of grades including 10th, 11th and 12th grades, with approximately 150 – 200 students per school. This coming school year (Fall 2013 to Spring 2014) will mark the first graduating class for each of the law academies.

School Discipline Policies/School to Prison Pipeline Issues: The COAF recognizes the serious impact that zero-tolerance school discipline policies have on diverting economically disadvantaged students out of the education pipeline and ultimately into the juvenile justice system. The COAF continues to work with experts to study this issue and to determine what initiatives can be created to address these challenges impacting the diversity pipeline.

Mock Trial Programs: The COAF continues to promote the involvement of the legal profession in mock trial programs as one of the best vehicles for developing critical thinking skills in students, as well as for educating students about the legal system and promoting the law as a profession. We initially focused on the Constitutional Rights Foundation mock trial program offered through the school system and have identified best practices for expanding the program among diverse and disadvantaged schools. The success of the general mock trial programs and support provided to the students rely heavily on the local resources of the various communities and school districts. Mock trial programs will also be introduced in the California Partnership Law Academies described above.

Marshall Brennan Constitutional Literacy Program: With a grant from the California Bar Foundation we have promoted the Marshall Brennan Program among California law schools. The program is sponsored by law schools, with law students being trained in constitutional law and juvenile justice curriculum. The students are assigned to high schools in disadvantaged communities where they teach the curriculum and coach the students in mock trial programs. This program provides a level playing field for student participants from disadvantaged communities. Teaching and mock trial coaching are provided at the various high schools by trained law students having the same level of experience and familiarity with the curriculum.

“Want to be a LAWYER?”: We continue to distribute the student pipeline brochure describing what lawyers do, who they are, and the different paths, both traditional and non-traditional, that students can take to becoming a lawyer. Brochures are distributed to various schools and pipeline programs as a resource for students who are interested in pursuing a legal career. The brochures are used in the classroom and are distributed at various events and career fairs throughout the State.

College/ Law School Projects:

Law School Rankings: COAF conferred with deans from California ABA accredited law schools and the Committee of Bar Examiners for input on our proposal to urge US News & World Report to develop and incorporate a meaningful diversity component as part of its overall law school rankings. A US News diversity index currently exists, but is separate from the overall aggregate rankings and does not define diversity in a manner that aligns with our goals. We have also reviewed and analyzed the US News rankings methodology to propose possible changes to the Reputation/Peer Review Surveys distributed to law school representatives, lawyers and judges to provide more objective feedback to USNWR on the quality of the law schools and law graduates. We have also developed proposed diversity metrics for US News to incorporate into its overall rankings. Finally, we will be proposing a realignment of weighted factors for the overall rankings. We have discussed the USNWR rankings methodology with the USNWR Editor, General Counsel and key staff and have received feedback from US News that it does not intend to modify its rankings methodology at this time. We will continue to evaluate the rankings methodology and develop a plan for ongoing dialogue with US News..

Community College Think Tank: COAF convened a group of Chancellors, Board Presidents, Administrators from the California Community College System to focus on community college initiatives to bridge the gap in the diversity pipeline from community college to law school and the profession. Projects include:

- **Video – “When You Dream: The Community College Pipeline to Law School”:** the production of video interviews with successful attorneys and judges who attended community college, to provide role models and create interest in the legal profession for students from diverse backgrounds. We produced a 9 minute and a 25 minute version of the video. See <https://www.youtube.com/watch?v=Lqz1hDDBTps> and https://www.youtube.com/watch?v=5beBX1s_FQM
- **“2+2+3” Articulation Agreements:** establishing agreements between community colleges, 4-year universities and law schools that guarantee admission or give priority enrollment to students who meet all requirements in the agreements. The selected students would be admitted to the four-year college from the community college if they achieve specific criteria (e.g. grade point average in approved course offerings, etc.), and then admitted to law school if they graduate from the four-year college with specified grade point averages in designated courses, LSAT score, and other key performance indicators. Support will be provided to the students throughout the pathway to achieve the best possible chance for success in graduating and attending law school. COAF is in discussions with two public schools (UC Davis and UC Irvine) and two private schools.(USC and Santa Clara). COAF hopes to reach final decisions with the schools this summer, so that articulation agreements can be drafted and approved by participants.
- **Faculty Champions:** COAF is recruiting community college faculty, especially those with JD’s, to train faculty, so they will be able to provide pre-law counseling to students and to teach the course curriculum that will be identified for the articulation agreements described above.

Pre Law Advisors: 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 preliminary report was submitted to internal State Bar entities and other stakeholders for discussion and a final report was issued for distribution among advisors and students planning to attend law school, as well as to other stakeholders. COAF also presented diversity information and a status report on its 2+2+3 initiative at the Annual Pacific Coast Association of Pre Law Advisors (PCAPLA) Conference in San Diego in June 2013.

Pre Law Clubs Tool Kit: COAF has produced a video 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 encouraging students to consider careers in the law. An accompanying list of resources and sites have also been compiled, providing 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.

Law School Focus Groups/Dialogue with Law School Deans: Focus groups have been convened with Law School Admissions Officers and Academic Support representatives in Northern and Southern California to examine law school admission practices and the current status of academic support services in California. A preliminary report was submitted for discussion with the Committee of Bar Examiners, Law School Assembly and other stakeholders and a final draft was presented to the then Board of Governors. Following these conversations, this project evolved into a new initiative, with the COAF convening direct conversations/ structured interviews with various law school deans per year to discuss the full range of issues impacting diversity in law schools including admissions, graduation, bar pass, and career placement, diversity programming, academic support and impact of law school rankings. So far dialogues have been held with law school deans from Hastings, USF, Loyola, Southwestern, Berkeley, UC Irvine and UCLA. COAF plans to review notes from meetings to identify model diversity programs. Programs will be summarized and shared with new law school deans.

Preparing for the Law School and Bar Admissions Process: Representatives from Bar Exam Prep Courses and Law School Academic Support Programs convened in San Francisco to discuss information and resources that could be compiled to provide practical tips to prepare for the admissions process. COAF co-sponsored a bar exam prep program with the Bar Association of San Francisco (BASF) and For People of Color, Inc. providing practical information for bar exam prep. The program was videotaped and has been posted on the For People of Color website (www.forpeopleofcolor.org). COAF is also sharing information on model pipeline programs that can be replicated, preparing students from underrepresented communities for success in law school.

ABA Standards for Law School Accreditation: We are in the process of drafting and submitting ongoing commentary as the ABA Standards Review Committee continues to develop proposed revisions to the ABA Standards for Law School Accreditation. Our commentary addresses diversity programs in law schools, student learning outcomes, bar passage standards, and reliance on other testing tools in addition to the use of the LSAT exam as a key factor in the admissions review process. Commentary has been shared with State Bar entities and other stakeholders focusing on law school admissions and accreditation. The COAF will continue to seek input from law schools and from the Committee of Bar Examiners and will eventually seek Board of Trustees approval for formal comments when the ABA issues proposed revisions to accreditation standards for official Public Comment.

Equal Access to Justice Curriculum: In an effort to increase diversity among the public interest and government sectors, COAF will initiate dialogue with law schools to explore the creation of an Access to Justice Curriculum to be offered in various law schools focusing on preparation for careers in public interest and the government sector. COAF will also work with stakeholders to increase the availability of public sector and public interest employment opportunities and loan forgiveness programs to serve as an incentive for law students to seek employment in the public interest/public sectors.

Legal Profession Projects:

Application of “Effective Lawyering” Findings: We have held ongoing discussions with Professor Marjorie Shultz (UC Berkeley Law) and Dr. Sheldon Zedeck (UC Berkeley) regarding the application of findings from their 10-year study on factors accounting for the successful practice of law and how to use the factors to supplement the LSAT, as well as for use in the employment setting re: recruitment, hiring, evaluation and promotion of young lawyers. Focus groups and statewide symposia were convened to educate legal employers and to garner interest among the legal profession for the application of the race neutral “effective lawyering” tools to expand the traditional criteria used for attorney recruitment, hiring, evaluation and promotions (e.g. LSAT scores, GPA, judicial clerkships, etc). Focus groups responded favorably to the use of the effective lawyer criteria and two symposia were held (in San Francisco and Los Angeles) to provide information to legal employers. A preliminary report has been drafted for further COAF consideration and follow up with stakeholders to apply the factors in the law school and employment settings.

Supplements and Alternatives to the LSAT: This project includes the development and distribution of information on existing testing instruments that can supplement or serve as an alternative to the LSAT for the purpose of promoting expanded admission criteria that are valid and reliable and that do not create an artificial barrier for diverse students. The identification of alternate testing instruments are in addition to the key study being circulated and discussed focusing on the 26 Factors for Effective Lawyering developed by Prof. Marjorie Shultz (Berkeley Law) and Dr. Sheldon Zedeck (UC Berkeley).

Legal Employer Focus Groups: Legal Employer focus groups were convened to address the impact of the economic downturn on diversity programs in various practice settings (e.g. private firms, government/public sector, in house corporate counsel, public interest organizations and in-house diversity directors). Focus groups were conducted in San Francisco, Los Angeles, Silicon Valley and San Diego. A final report has been drafted for review by the full COAF and eventual distribution. Feedback and examples of model programs will be compiled for circulation to employers and other stakeholder groups focusing on diversity pipeline issues in the legal profession. Areas that evolved for further review include issues impacting recruitment, retention, evaluation and promotion of diverse attorneys.

Access, Fairness, Diversity and Elimination of Bias for Diverse Constituents: COAF is conducting open dialogues with affinity bar associations and members of various diversity constituent groups including ethnic minorities, women, LGBT and older attorneys, as well as attorneys with disabilities to identify diversity pipeline issues and to increase access, fairness and diversity in the legal profession and the elimination of bias in the practice of law toward these groups.

Member Survey: COAF will work with the State Bar to ensure that constituent groups are included in future membership surveys and given the opportunity to provide voluntary information re demographics, practice settings, and other relevant information that can be used to address ongoing professional and practice needs by the State Bar.

Judicial Projects:

Judicial Summit: COAF helped to coordinate a 2011 Judicial Summit co-sponsored by the State Bar of California and the California Judicial Council. The Summit was designed to provide follow up to an initial summit held in June 2006. The 2011 summit looked at progress made over the past five years and assessed the current status of judicial diversity in California, culminating with the creation of an action plan for increased diversity on the bench. A report and recommendations were issued as of June 2012. A joint planning committee of the Judicial Council Access and Fairness Advisory Committee and the State Bar COAF, along with other key stakeholders, will review, prioritize and develop a 5-year action plan for implementation.

Judicial Qualifications Criteria: COAF produced resource materials incorporating the full range of practice settings and skill sets transferable to judicial positions as mandated in existing legislation (Govt. Code 12011.5(d) requiring the State Bar Commission on Judicial Nominees Evaluation (JNE) to “consider legal experience broadly” in its rankings process. COAF has shared the materials with the Governor’s Office, JNE, local and minority bars and other entities engaged in vetting judicial applicants.

JNE Elimination of Bias Training: COAF has been invited to provide Elimination of Bias training to the Judicial Nominees Evaluation Commission. COAF has provided training for the past two years, focusing on data and demographics on the current status of diversity in the legal profession and judiciary, an analysis of SB 56 reports (from the Governor’s Office, Judicial Council and JNE) and an overview of the resource guide prepared by COAF for the application of Govt. Code Section 12011.5 (d) described above. COAF also coordinates re the implicit bias training provided to JNE also on an annual basis and now mandated in Govt. Code Section 12011.5.

Online Application for Judicial Appointment: COAF created its “Tips and Checklist” for the completion of the online judicial appointments application. We continue to coordinate with the Governor’s Judicial Appointments Office to modify the “Tips” when the application form is changed and to alert the Governor’s office when we learn of glitches and concerns re: the completion of the online process.

Outreach and Recruitment for Judicial Applications: COAF continues to collaborate with the Governor’s Office to conduct judicial appointments outreach to encourage attorneys from diverse backgrounds to apply for judicial appointment throughout the state. In particular, COAF will convene appointments workshops in counties with a lack of a diverse judiciary, to increase diversity in the applicant pool for further screening and review by the Governor’s Office. COAF will also provide mentoring workshops to provide support, information and one-on-one feedback re: draft applications by potential judicial applicants. Mentors include judges and former JNE commissioners.

Judicial Diversity “Tool Kit”: We participated on the Judicial Council Access & Fairness Advisory Committee Task Force to create a *Judicial Diversity Tool Kit*. The Tool Kit includes examples of diversity programs and initiatives and is designed to assist members of the bench

in the creation and implementation of local programs to increase diversity among attorney applicants for judicial appointment.

Other COAF Projects and Events:

COAF Diversity Stakeholder Outreach:

All members of the COAF are responsible for conducting outreach to local, diversity and specialty bars and other legal groups to provide information about the COAF initiatives and to forge a partnership for future collaboration. Any group needing a presentation or data for a local presentation should contact staff at 415-538-2240.

Diversity Stakeholder Forum:

The Annual Diversity Stakeholder Forum is held during the State Bar Annual Meeting. The forum provides the opportunity for open dialogue between COAF and stakeholders to focus on major challenges along the diversity pipeline and ways to collaborate with stakeholders to address the identified issues.

Annual Diversity and Education Pipeline Awards and Awards Reception:

Each year the State Bar presents Diversity Awards acknowledging the contributions by an attorney, law firm, bar association and other organizations toward increasing diversity in the profession. The Bar also presents an Education Pipeline Award for exemplary work educating students about the legal system and encouraging students to consider a career in the law. The annual deadline for nominations is March 31st of each year. Application forms and guidelines can be viewed at www.calbar.org/AFCouncil in preparation for next year's cycle. The Awards are presented at the State Bar Annual Meeting. This year the Awards Reception will be held on Saturday, October 12, 2013 from 5:30 to 7:30 PM in San Jose, CA.

Diversity Coalition--State Bar Appointments:

The COAF is conducting outreach to educate diverse attorneys about the opportunities and importance of applying for appointment to State Bar entities. Information has been compiled re the appointments process, tips for completing the application, and requisites for appointment for each State Bar entity. COAF also has conducted appointments workshops to provide greater detail on the appointments application and process and to offer mentoring support and review of applications prior to submission.

Statement of Diversity Principles:

COAF will initiate outreach in the coming year promoting the State Bar Statement of Diversity Principles (originally approved by the then Board of Governors in 2005) and extend a "Call to Action" to legal employers and other entities for increased diversity in the legal profession, as well as among appointments to State Bar Sections, Committees and Commissions. A new Addendum has been created to provide model programs and links to resources as a guide for creating or expanding in-house diversity programs.

Online Model Diversity Pipeline Programs: COAF compiles a listing of Model Diversity Programs, which are available through the State Bar Website. The COAF continues to update its online listing of Model Diversity Pipeline Programs that meet its "CSIRE" criteria: **C**ontinuity, **S**ustainability, **I**mpact, **R**eplicability and **E**valuation/Self Assessment. (go to www.calbar.org/AFCouncil and find the Diversity Pipeline Task Force Report, which includes the listing of model diversity programs)

Diversity ROAD SHOW: COAF has produced (and updates as needed) a set of power point slides including data and demographics on the status of diversity along the diversity pipeline (early education, college/law school, bar exam, legal profession and judiciary) and strategies for attorney involvement in the elimination of bias and increasing diversity in the practice of law.

Resource Materials:

Materials are posted online at www.calbar.org/AFCouncil and also are available in hard copy. Materials may be used for training and outreach events, with proper attribution to the State Bar Council on Access & Fairness. Please contact staff for further information or for additional hard copies.

- Diversity Pipeline Task Force Report (including Model Diversity Programs)
- Statement of Diversity Principles and Addendum
- 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
- 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"

For Further Information Contact:

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Note: All diversity and elimination of bias activities are funded through voluntary contributions to the State Bar of California. No mandatory attorney dues are used for these purposes.