

ATTACHMENT C

NAC: Summary of Comments Regarding Proposed Committee Application Changes

	Date	Individual/Entity	Comments	Support/ Oppose
1.	5/20/15	Kelli Evans, Senior Director, Administration of Justice, Office of Legal Services	<p>Thank you both and NAC for your work on updating the application form and for the opportunity to review the draft and share thoughts. On behalf of the Office of Legal Services, I have two comments:</p> <p>1) Limiting applicants' choice to one committee:</p> <p>We do not support the recommendation that candidates be limited to applying for appointment to only one committee.</p> <p>According to the memorandum, listing multiple committees on an application may hurt an applicant's selection for their first choice committee because they may be seen as "committee shopping." In our experience (which includes the Access Commission, SCDLS, and the Trust Fund Commission), committees always favorably view candidates who list a committee as their first choice. When candidates list a committee as a second, and especially, as a third choice they are viewed not quite as favorably but still are considered for selection. In other words, in our experience, listing a first choice helps and in no way hurts a candidate.</p> <p>We do not support the recommendation that candidates be limited to applying for appointment to only one committee for two primary reasons. First, some committees have a difficult time recruiting members and often end up selecting well-qualified candidates who listed the committee as their second choice. Such individuals provide valuable volunteer service to the Bar yet, under the proposed new system, they would not have been selected for participation. Second, some of our committees have some overlap in terms of the issues they address. As such, it makes sense that someone may be interested in and well qualified to serve on more than one committee.</p> <p>Accordingly, we recommend that applicants be permitted to apply to up to two committees. If they choose to apply to more than one committee, they should be instructed to state their qualifications for each of the committees. If they fail to do so and it makes them appear less qualified for one of the committees, that is their decision.</p> <p>2) Eliminating language re: the Bar valuing diversity</p> <p>We do not support the recommendation to delete the diversity language on the application. This language has been vetted with OGC as being in compliance with state and federal laws. As noted in the memo, the language makes clear that the Bar has a broad conception of diversity and seeks volunteers from all corners of the State with all different types of backgrounds and experiences. Deleting the diversity language would likely be noticed by the legal press and other stakeholders and could inadvertently signal a retreat by the Bar in terms of valuing diversity. This, in turn, may discourage individuals from applying. We are striving to have the broadest applicant pools and participation possible yet continue to struggle. So, we would recommend against any action that may further exacerbate the problem. Rather than deleting the diversity language, we recommend that the Bar continue to expand the places in which we publicize volunteer opportunities to ensure the broadest participation of California lawyers. Finally, deleting the diversity language also would appear to be inconsistent with the Board's current focus on mentorship and also on diversity in contracting.</p>	Support with amendments.

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2.	5/20/15	Stephanie Choy, Managing Director, Legal Services Trust Fund Program	<p>I know that Kelli spoke for our whole department, but I'd like to echo what she said. The only time the Legal Services Trust Fund Commission is first choice is through individual outreach, and even then, the Access Commission and SCDLS have a lot more street appeal. People don't really understand what we do, and it sounds like (and is) a lot of work. It would really harm our ability to get good candidates if people who really care about justice, did not sometimes put us down as second or even third choice. After they have heard about the work of the Commission, they get excited. We have gotten some great candidates this way. (Once they are on, they are loyal and don't want to leave, but it is rare that we are first choice.)</p> <p>Thanks for giving us an opportunity to comment.</p>	Support with amendments.
3.	6/2/15	Lauren McCurdy, Senior Administrative Specialist, Office of Professional Competence	I have no critical comments or nits, only praise. I think this is great and overdue. I briefly thought that limiting the volunteers to one application could discourage the spirit of volunteerism, but I was persuaded by the explanation concerning this in the memo. Good job!	Support.
4.	6/2/15	Heidi Schwab-Wilhelmi, Senior Administrative Specialist, Office of Judicial Nominees Evaluation	I examined the applications and the changes, and think all of the edits are well taken. I would like to keep the following question (or some version of it) "How did you learn of the vacancy". The JNE leadership and staff find this information helpful. It helps the JNE leadership (and fellow commissioners) to do more focused outreach during the year. For example, if a listed source routinely refers candidates to us, the leadership, commissioners, and I would continue to reach out to that population during that year. I think it is helpful to know how many learn of the vacancy through a State Bar publication or Bar website. If we are receiving candidates from that source, then I would like to establish more of a media presence there as well.	Support with amendments.
5.	6/11/15	Natalie Leonard, Director, Legal Specialization, Office of Admissions	<p>Thank you to you and to Joanna for working to update and streamline the appointment process and for proposing so many welcome changes. I have just a few comments below:</p> <ol style="list-style-type: none"> 1. Under the upfront instructions, just as there are some helpful tips for applicants to the sections executive committees, it would be helpful to provide advice to CBLS applicants. I would propose the following: California Board of Legal Specialization and its Advisory Commissions: Attorney applicants to these commissions must generally be certified specialists, though one member of an advisory commission and two members of the CBLS may be non-specialists, such as professors. Newly certified specialists are encouraged to apply. Apply to become a certified specialist at www.californiaspecialist.org. 2. Consolidating the List of Committees: Currently, when picking the committee, the committees are contained in a series of individual boxes, each of which contains a different list of committees. This often confuses people applying to the Advisory Commissions and the CBLS, since those are not in the first box. I am hoping that the new form will have a single list in which all entities are listed in a logical order. In the past, some people have mistakenly also selected the Sections "Ex Comm's" in their specialty field, to be sure that we knew they wanted to be on the Advisory Commissions; though they intended to reduce confusion, of course confusion was created! 3. Are e-signatures possible? Would it be possible to also consider e-signatures, so that the form could fully be completed online? E-Signatures are possible if the form is available in Adobe as a fillable form and the user has enhanced Adobe Reader or Adobe Acrobat Pro. <p>Thank you for the opportunity to comment about the new application process for appointments.</p>	Support with amendments.

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6.	6/11/15	Saul Bercovitch, Legislative Counsel	<p>Thank you for the opportunity to comment on the proposed changes to the committee application form. I am writing based on my experience as staff to the Committee on Administration of Justice, Committee on Alternative Dispute Resolution, Committee on Appellate Courts, and Committee on Federal Courts.</p> <p>I am limiting my comments to the proposal that would eliminate an applicant's ability to apply to multiple committees. I do not support that proposal, and believe it would reduce the pool of qualified applicants for various committees.</p> <p>In my experience, listing a committee as a first choice is generally viewed more favorably as, for example, a sign of interest or dedication. If there is a concern that a first choice is given too much weight, there may be other ways to deal with that situation than limiting applicants to one choice.</p> <p>The subject matter of the four committees I staff can overlap to some extent, although each has its own specialized area of interest and expertise. In addition to other diversity considerations, each committee has internal diversity considerations, based on their particular practice areas. For example, the Committee on Appellate Courts seeks to have members who practice in each of the six appellate districts in California and the Committee on Federal Courts seeks to have members who practice in each of the four federal districts. Those needs vary from year to year, depending upon the composition of the ongoing committees, as does the applicant pool.</p> <p>In any given year, we could be faced with a situation where the Committee on Appellate Courts has a need for a practitioner from the Fourth Appellate District (six southern California counties). In that same year, the Committee on Federal Courts may have ongoing members who practice in the Southern District of California, but need practitioners from other federal districts. Under the existing system, a highly qualified federal appellate practitioner from San Diego could list the Committee on Federal Courts first and the Committee on Appellate Courts second. The Committee on Federal Courts may not select the applicant because of other needs - completely unrelated to the applicant's qualifications - but the Committee on Appellate Courts may select that same applicant. Under the proposed change, this would be a lost opportunity to recruit a highly qualified applicant, and would result in an unfilled need on the Committee on Appellate Courts, absent other qualified applicants from the Fourth Appellate District.</p> <p>As one more example, over the years it has not been uncommon for the ADR Committee to receive well-qualified applicants in excess of the number of vacancies, often listing the ADR Committee as their first (and sometimes only) choice. Even if the ADR Committee were to give extra weight to applicants who list the committee as their first choice, there may simply be no room for all of these applicants. Some of these same applicants may be interested in and perfectly qualified to serve on a different committee, listing it as a second or even third choice. There have been years when applications to some committees have been relatively sparse. Those committees may end up selecting well-qualified applicants who list the committee as their second or third choice. Under the current system, other committees have an opportunity to consider these applicants, who could not get their first choice because of vacancy limitations that are unrelated to a particular applicant's qualifications. Under the proposed change, the opportunity to have these applicants serve on a committee would be lost, and other needs may go unfilled.</p> <p>These are some examples, but limiting applicants to one committee could have an impact in other situations. As an overarching matter, if a qualified volunteer is interested in serving on any one of several different committees, I do not think we should limit the choice to one committee only.</p> <p>Thank you for your work on this issue.</p>	Support with amendments.

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7.	6/11/15	Perry Segal, Co-Chair, Counsel of California State Bar Sections	<p>Although I agree with the proposal in general, I disagree with the concept of changing the rule to limit applications to a single entity. In my view, the Board erroneously places responsibility on committees, rather than the individuals applying for those positions. The Board makes the assumption that applicants are applying to multiple committees with little regard; and for some that may be true. However, I believe that in this case, one doesn't throw the baby out with the bathwater.</p> <p>Taking myself as an example, I have varied skills and have always been interested in serving multiple State Bar committees. When applying, I'm mindful of the fact that each committee has limited slots available and may not have one for me (as you know, for many committees, available slots are not static, but change from year to year). Further, when applying to multiple committees, I take care to write different applications, specifically tailored to each committee.</p> <p>When an applicant fails to do so, it's likely due to one of these factors:</p> <ul style="list-style-type: none"> • An innocent oversight (e.g. applicant forgets to change a letter) • Confusion about the 'convoluted' rules (based on the proposal, we know that to be true in many cases) • Laziness on the part of the applicant, or • A 'throw-it-against-the-wall-and-see-if-it-sticks' approach <p>Again, I'm sure a subsection of each of these factors is true, but this must be contrasted with the fact that many committees exert great effort to find competent applicants to fill each of their available slots in any given year. While I certainly recognize and respect the administrative headaches that drive the proposal to restrict the open application process, the Board must consider the effect on those who endeavor in good faith to create and submit multiple, tailor-made applications to two or three committees. There is no reason to penalize those who make the effort. In fact, those who go the extra mile are the very applicants who show initiative and as a result, should be rewarded with – at minimum – consideration for open committee slots.</p> <p>It's important to keep in mind that the current application contains "ranks" which allow the applicant to tell us their priority of choice. Failing this, perhaps the Board might consider baby steps and reduce possible applications from three to two – then see how it goes.</p> <p>Thank you for the opportunity to comment.</p>	Support with amendments.
8.	6/11/15	Pam Wilson, Senior Director, Office of Education	<p>I want to first thank you for taking on the unthankful task of updating the application form. It was long overdue.</p> <p>We don't have a lot of comments as overall we think the changes are good. However, the one area where there was substantial disagreement among staff in the Office of Education is limiting the ability to apply to more than one committee/section.</p> <p>While everyone agreed that some sections will never consider an applicant who didn't list their section as the first choice there are other sections that are not as fortunate to have large applicant pools. This also can change year by year, section by section.</p> <p>As a start we would recommend allowing an applicant to apply to two committees/sections. Additionally, if a person chooses to apply to more than one committee a separate statement of interest should be required for each committees/sections.</p> <p>We also think this should be tried for 1 or 2 years at most and then revisited after we have some data on the results of the changes.</p>	Support with amendments.

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9.	6/12/15	Hon. Karen Clopton, Chair, Council on Access and Fairness	<p>Thank you for sharing proposed amendments to the Appointments Application and for allowing the Council on Access & Fairness (COAF) to offer preliminary comments for your consideration as you finalize your recommendations to the Board of Trustees.</p> <p>Our COAF Chairs discussed the proposed amendments during our monthly conference call on June 3, 2015. COAF supports efforts to streamline and improve the application process through revisions to the Appointments Application Form, but finds that some of the proposed changes would have a negative impact on the State Bar appointment policies encouraging the opportunity of all State Bar members to participate in activities of various entities and the importance of achieving broad-based diversity among these entities.</p> <p>COAF offers feedback on the following NAC proposals:</p> <p><u>COAF Recommends that Applicants be allowed to apply to more than one entity:</u> COAF is the only State Bar entity specifically charged with conducting outreach about the State Bar application process and encouraging attorneys from diverse backgrounds to seek appointments to and leadership opportunities with State Bar entities. Reducing the number of overall applications by limiting the number of applications submitted by an individual would have the potential effect of reducing the diversity of the applicant pool for various entities and the potential appointment of diverse attorneys.</p> <p>COAF understands the NAC concerns that applications to multiple entities are often not responsive to all the entities to which the individual is seeking appointment. The applicants applying to multiple entities often submit one “generic” application that aligns with the applicant’s first choice, with little reference to the applicant’s relevant experience, interest and potential contributions to the second and perhaps third choices. On the other hand, COAF recognizes that many applicants, including applicants from diverse backgrounds, may be qualified for and can make a positive contribution to more than one entity. Rather than limiting applications to just one entity, the instructions on the application should direct the applicant to submit a separate application for each entity of interest to the applicants. The instructions should indicate that each application should provide specific information to enable the various entities to evaluate the applicant.</p> <p>If an applicant is seeking appointment to multiple entities, that information should be provided to the Appointments Office to share with each entity as general information and not in any order of priority. The current application asks applicants for all entities to which applying and provides space to list as #1, #2 and #3. Listing of entities in order of priority often has a negative impact on the decision-making process of entities not listed as #1. By providing a list of other entities to which applied and not in any order of priority, would allow each entity to evaluate the applicant and determine the entity to which the applicant could best contribute.</p> <p>As the entities review their respective applications, they should evaluate the applicant’s qualifications, statement of interest/personal statement and the contributions that can be made by the applicant to that particular entity. If an entity is of the opinion that an applicant might be equally or better qualified and suited to serve on another listed entity and that it would defer to the other entities, that information should be conveyed and shared with the other entities. This approach has been used in the past by COAF to indicate its support to other entities for applications from various diverse applicants. And, this approach would ensure that diverse applicants be considered through a broad based review process designed to draw out relevant information and to enable the applicants to be considered fairly and objectively by each entity to make an appropriate appointment recommendation.</p>	Support with amendments.

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9.	6/12/15	Hon. Karen Clopton, Chair, Council on Access and Fairness (cont'd)	<p><u>COAF Recommends that the “How Did You Learn of This Vacancy” question NOT be eliminated.</u> As indicated above, COAF is charged with outreach to diverse attorneys to encourage their application for appointment to State Bar entities. The State Bar as a whole should also be engaged in active outreach and recruitment. The feedback from this section not only assists in evaluating the success of the outreach, but also provides feedback and opportunities for potential partnerships with other entities re: the recruitment and outreach efforts.</p> <p>It is noted that there is a concern if an applicant indicates that s/he became aware of the vacancy through a member of the BOT and a letter of recommendation is not included. It would seem appropriate for NAC and/or the Appointments Office to contact the applicant and/or the BOT member to request additional specific feedback re: the nature of the BOT member’s referral to determine how the referral was made. (e.g. if the application process perhaps was described and discussed during a panel presentation or if the referral was made specifically and personally to the applicant with encouragement to submit an application). It is understood that as BOT members do outreach, they encourage numbers of attorneys to seek appointment to State Bar entities. However recommendations from BOT members may not necessarily result in the appointment of an applicant. It is important to know the basis for the recommendation, how well the BOT member knows the applicant and the applicant’s qualifications, and if the applicant is well-suited to serve on the entity to which applying.</p> <p><u>COAF Recommends that the language currently appearing in the Application regarding the State Bar’s policies valuing diversity and broad representation in the appointments to State Bar entities NOT be eliminated.</u> Including the State Bar Appointments policy on the Application itself provides the State Bar with the best opportunity to publicize this policy widely through the Application process. It is also important for applicants to be aware of the State Bar Appointments policies related to encouraging the opportunity of all State Bar members to participate in activities of various entities and the importance of achieving broad-based diversity in these entities.</p> <p>The language appearing in the Application Form is the only place where the State Bar can guarantee that potential applicants would see this message and be aware of the State Bar Appointment Policy. It is also important for State Bar entities to be reminded of this policy as they review the applications and applicant qualifications. Deleting the language that has long appeared in the application might also create the impression that this policy no longer exists. It would also raise questions as to why the State Bar is asking for voluntary information related to race, ethnicity, gender, sexual orientation, age and other diversity factors or background information.</p> <p>If the current language seems too long and cumbersome, perhaps the policy statement can be re-written to be more succinct, while conveying the same policy message.</p>	

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9.	6/12/15	Hon. Karen Clopton, Chair, Council on Access and Fairness (cont'd)	<p><u>COAF Recommends that the current questions appearing under the “Additional Background” section NOT be eliminated.</u> These questions seek information that speaks to the broader criteria accounting for diverse experiences, characteristics, backgrounds, life challenges, skill sets and qualifications among the applicants. This information provides guidance to applicants as to the additional factors that are considered beyond professional experience and expertise. The information should also serve to better inform the various entities and the State Bar of the applicant characteristics that would account for positive contributions, character and integrity of the applicant being considered for appointment. Information of this nature is routinely sought in the application process by other entities to enable the entities to apply a holistic review of the applicant and to enable the entity to achieve broad diversity among applicants accepted for appointment. Seeking this information on the State Bar application would help to serve the same purposes. Directions on the application might specify that these are suggested areas for the applicant to include in the statement if s/he considers the information important and relevant to serving on the particular entity to which applying.</p> <p>COAF appreciates the opportunity to provide these preliminary comments to NAC as it considers potential amendments to the Appointments Application Form and is available should NAC have questions or need additional information.</p>	