

# AGENDA ITEM

## III B JULY 2017

**DATE:** June 22, 2017

**TO:** **Members**, Stakeholders, Access to Justice & Appointments Committee

**FROM:** **Judge Diana Becton, Chair, Council on Access & Fairness**  
**Patricia Lee, Managing Director for Diversity Outreach**

**SUBJECT:** **Council on Access & Fairness Annual Report**

### BACKGROUND

The Council on Access & Fairness (COAF) serves as the diversity think tank on behalf of the State Bar and is the single entity within the State Bar charged with implementing the Bar's goal of increasing diversity and inclusion in the legal profession. COAF organizes its work along the segments of the diversity pipeline including Early Education, College/Law School, the Legal Profession and the Judiciary, plus specific projects that encompass and support the work of the entire COAF including Communications, Elimination of Bias/Education, Stakeholder Outreach, Long Range Planning and Fundraising.

COAF has adopted the following strategic goals to guide its work:

1. **Produce Institutional and Attitudinal Changes** to create a culture of inclusion within the legal profession and judiciary that fosters diversity
2. **Communicate to Inspire and Engage Diversity** by serving as a catalyst for change by framing and communicating ways to respond to diversity challenges to inspire and empower potential lawyers from diverse communities
3. **Partner, Collaborate and Coordinate to Achieve Diversity** by partnering, collaborating, and coordinating with existing entities and individuals already working toward the goal of diversity and inclusion within the justice system
4. **Measure Change** by creating mechanisms to measure change in the diversity of the legal profession over time.

## ACCOMPLISHMENTS IN 2016:

### 1. Promoting expansion of and providing program support for California Partnership High School Law Academies:

**Background:** *In 2010, the State Bar created a unique partnership with the California Department of Education (CDE) to build its first 6 high school law academies under the California Partnership Academy model. Created by the California Legislature in 1986, the model required that students in these classrooms be at least 50% at risk and be in high schools of 350+ students. These requirements led to classrooms that reflected the population of California in its diversity. High school students receive a law class starting in the 10th grade - every day for 3 years. The dream of becoming a lawyer became a reality for the first time for many of these students, many who were considered disadvantaged. The law academies are supported by a volunteer group of lawyers and judges under the California Law Academy Support Council (CLAS). More than 1200 legal professionals give of their time, energy and funds to work with these students. In 2015 the California Partnership Law Academy Program was honored with the presentation of the ABA Alexander Award, recognizing exemplary leadership in pipeline work. With outreach by COAF and staff at California LAW, Inc., the partnership academies continue to grow. With the addition of two more academies in 2016, the total number is now 16 law academies, with more in the planning. Since the graduation of approximately 300 seniors combined from the original 6 law academies in 2010, an estimated 40-50 additional students graduate each year from each of the additional law academies.*

#### **Convened the 6<sup>th</sup> Annual California Law Academy Support Council (CLAS)**

**Summit and Faculty Professional Development:** When the California Partnership Law Academies were created in 2010, the State Bar recruited volunteer lawyers and judges and created the California Law Academy Support Council (CLAS) to ensure sharing of updates from the CDE and ongoing communication, collaboration and support among the law academies. The 6<sup>th</sup> Annual CLAS Summit was convened by the State Bar in June 2016 and covered programming on promoting law academies in the community, Academy Team Planning for the school year, Restorative Justice Programs, "Know Your Rights" presentations and online Legal Research through FastCase. The CLAS Summit also provided a day of professional development for the law academy faculty. Topics included maximizing student performance by reducing the effects of negative stereotypes, Stereotype Threat, Growth Mindset and other concepts impacting students, and practical applications integrating these concepts into the classroom curriculum.

#### **Created Resources to Support the Law Academies:**

**A sample Media Packet** was developed for the Academies to develop their own local public relations campaigns promoting the academies and encouraging

members of the legal profession to volunteer for the program. Contents include a California Law Academy brochure; sample local law academy brochures; updated PowerPoint slides providing background, statistics and potential volunteer opportunities; sample press kits, and tips for interviews with the media.

**Updated mentor handbooks** were distributed to all academies for use in the local mentoring programs. The Mentor Handbook provided a program overview, mentoring topics to be discussed at each session, and tips for interacting with students and counseling them in goal setting and achieving goals. The Student Handbook provided information to help prepare the students for the mentoring relationship and included the topics to be addressed, sample questions for students to ask their mentors, student goal setting information, etc.

**Obtained Free Access to Online Legal Research** through FastCase for all Law Academy students and teachers (also note below the free service is also offered to the students and teachers in the Community College Pathway Program). We were fortunate to have developed this partnership, as FastCase is one of the nation's fastest growing legal tech companies, with twenty-nine state bar associations subscribing to Fastcase, as well as scores of the nation's largest law firms. A recent survey showed that Fastcase is in a "virtual dead heat" for the most-used legal research service (Westlaw 20.58%, Fastcase 20.35%, and LexisNexis 20.21%).

**Presented "Know Your Rights" and Immigration programs to educate and engage students and inform parents about key legal areas:** COAF partnered with representatives from the National Bar Association to conduct ongoing presentations of the "Know Your Rights" Program to educate students about their rights and responsibilities when detained by law enforcement officials. To address growing concerns by parents and students, COAF arranged for presentations on immigrant rights, deportation concerns and the current status of DACA (deferred action for childhood arrivals).

**Conducted the 4<sup>th</sup> Annual Law Academy Essay Contest** inviting law academy students to submit essays on a selected theme. The contest is designed to educate students about key legal concepts, as well as to encourage the development of critical analysis and writing skills. The 2016 theme was "Miranda: More than Words", celebrating the 50<sup>th</sup> anniversary of the *Miranda v. Arizona* decision.

## **2. Promoting expansion of and support for 2+2+3 Pathway to Law Program:**

**Background:** *This program was established in 2014 when 24 California Community Colleges, 6 undergraduate institutions and 6 law schools all signed a Memorandum of Understanding as the inaugural class of the Community College Pathway to Law School initiative. Thuy Thi Nguyen, then the chair of the College/Law School Committee of the Council on Access and*

*Fairness, envisioned this project and worked tirelessly to bring it into reality. The Community College Pathway to Law School initiative is an innovative, unprecedented program in the United States, and to the legal profession. The initiative has received national attention through various news outlets such as the Los Angeles Times, National Public Radio, San Francisco Chronicle, San Jose Mercury News, Fresno Bee, American Bar Association Journal, and the Community College Daily. It provides a clear pathway from community college to law school with the purpose of diversity in the legal profession. Support for the students, including mentoring and pre-law counseling, will be included in order to provide students with the best possible chance for success. Professional development activities would be provided to faculty members.*

*The Community College Pathway to Law School initiative requires the completion of courses that are based on a defined set of “success factors” that help make effective lawyers. The intention of this initiative is to align criteria from the “success factors” with California Community College courses already approved in corresponding Intersegmental General Education Transfer Curriculum (IGETC) areas in order to allow students to transfer community college units to a four-year university and be better prepared as students for law school by ensuring that they have knowledge of the skills necessary to succeed.*

*California LAW and the State Bar’s Council on Access & Fairness, with these agreements, hopes to create a clear pathway for students from diverse backgrounds to attend law schools. Our community college system has the most diverse student population of the three public systems in California, providing opportunity for everyone who aspires to obtain a college education, including students from the least affluent communities in California, first generation students, students of color, students with disabilities, veterans, and those who have work and family responsibilities. Thousands of talented and promising students leak out of the education pipeline from community college to law school every year because of a lack of support, mentoring, financial resources, and information about what is needed to gain admission and succeed in law school.*

**Collaborated with and supported the creation of California LAW, Inc.** to assume the day-to-day management and operation of the 2+2+3 Pathway to Law Program. COAF provided support through the final transition stages to shift the program to California LAW and continues to serve in a liaison role to help support the ongoing operations and to promote the Pathway to Law program statewide among California community colleges, undergraduate colleges and universities, and law schools.

**Supported the Planning and Convening of the 2<sup>nd</sup> Annual Pathway to Law Summit and Professional Development Workshop:** Similar to the Annual CLAS Summits convened for the Law Academies, the Annual Pathway to Law

Summit has been created under the auspices of California LAW to bring together all Pathway to Law partners including representatives from high schools, community colleges, undergraduate universities/colleges and law schools to ensure the smooth operation of the program at all levels and to solidify the pathway to law school. The Professional Development training focused on “The Science of Success: Neuroscience, Stereotype Threat and Implicit Association” and how the concepts are manifested in the classroom and about implications for education of students from diverse backgrounds.

**Obtained Free Access to FastCase Online Legal Research Program:** This is the same opportunity described above for the high school Law Academy students and teachers and is extended to all students and faculty participating in the Community College Pathway to Law Program.

### **3. Bar Passage Activities:**

**Initiated Discussions re: Bar Passage initiatives:** COAF engaged in discussions with a research team of socio-psychologists from Stanford, Indiana University and USC to address the low Bar Passage rates by focusing on the introduction of psychological interventions and helped to convene briefings with the State Bar CEO and COO. (*Note: the Psychological Intervention Initiative is moving forward with implementation planned for the July 2018 Bar Exam. See Admissions and Education Committee Agenda Item III. H.*)

**Submitted comments on ABA Accreditation Standard 316:** COAF submitted comments to the ABA Council of the Section on Legal Education and Admissions to the Bar opposing proposed changes to ABA Standard 316 which would require an eventual bar passage rate of 75% for law student graduates within two years of graduation. Concerns included the negative impact on California ABA accredited law schools due to the high state “cut scores” and the potential negative impact on enrollment of and support for students from diverse backgrounds. The comments submitted were virtually identical to comments submitted two years ago, when the ABA also proposed similar amendments, but decided not to follow up with the changes to the Standard.

### **4. Provided Support for Members of the Legal Profession;**

**Mentoring Program –** In preparation for the work of the original Mentoring Task Force and the current Mentoring Working Group, COAF conducted a survey of all bar associations and engaged in research regarding existing bar association mentoring programs. Model programs were identified and referred to the Mentoring Task Force and Working Group for discussion regarding pilot program options.

**Promotion and distribution of State Bar EOB Video entitled “Walk the Walk”:** COAF continues to promote the State Bar produced EOB video which

includes vignettes depicting real life experiences of bias in the work place on the part of attorneys from diverse backgrounds. The COAF focus group report on model in-house diversity programs accompanies the video. The video has been distributed upon request to over 20 entities including law firms, public interest programs, local, state and national bar associations and other entities. COAF continues to use the video in ongoing elimination of bias programs.

## **5. Judicial Diversity Activities**

**Convened the 2016 Judicial Summit and Windtunneling Process:** The statewide Judicial Summit has been convened every five years since the first summit in 2006. The Summit provides an opportunity to evaluate the status of diversity on the bench, to highlight accomplishments regarding judicial diversity and inclusion initiatives since the 2011 Summit, and to increase awareness for and engage in dialogue regarding judicial diversity issues and challenges for all participants. The Summit was co-sponsored by the Judicial Council and the California Judges Association. To encourage a wider range of stakeholder involvement in dialogue and feedback, we implemented the “Windtunneling” process, an online tool that provides for a broader group of interested stakeholders to share, in their own words, anonymously, what they think about the importance of judicial diversity and what will improve the diversity of California’s judiciary. The following groups were invited to participate: all California judges, referees, commissioners and court executives; local/ minority/specialty bar associations; public interest and non-profit groups; law schools, and registrants for the Summit. With the completion of the Summit, the planning group will review feedback and provide a draft report and recommendations, along with proposed 5-year action plan for review by COAF, the Board of Trustee, the Judicial Council and the California Judges Association for ongoing follow up.

**Presented Judicial Appointments Workshops:** Appointments Workshops were presented in counties to increase the diversity in the judicial applicant pool and were designed to demystify the judicial appointments process. Panelists included the Chair of the COAF Judicial Committee, a representative from the Commission on Judicial Nominees Evaluation (JNE), and recently appointed judges to share their firsthand experiences and advice on the process. A representative from the Governor’s Office also participated, depending on scheduling. Mentoring Workshops were presented to provide one-on-one feedback on judicial applications submitted by individual attorney applicants. The feedback was provided by COAF judicial members, other sitting judges and former JNE commissioners. Appointments Workshops were presented in San Diego, Riverside County and Los Angeles. Mentoring Workshops were presented in San Diego, Riverside County, and Sacramento.

**Conducted JNE EOB Training:** The COAF Judicial Committee presented its annual elimination of bias training for the JNE Commission. (Note that Gov. Code

12011.5(b) requires JNE commissioners to undergo EOB training in their first year of appointment and an additional year if serving more than one year.) The training is designed to raise awareness among the JNE Commissioners regarding the existence of bias and how to overcome biases in the review and ranking of applications submitted by attorneys from diverse backgrounds, various practice settings, etc.

**Convened “Clean Slate” Day:** Judicial Chair Hon. Diana Becton worked with the faith community to convene a Clean Slate Day in Richmond California. The Clean Slate Day focused on helping people who have contact with the criminal justice system to successfully rejoin their communities. Clean Slate attorneys and Judge Becton convened court in a local church and provided services to dismiss convictions (expungement), terminate probation early, reduce felony convictions, dismiss traffic ticket fines and fees, and complete criminal back checks and live scan services free of charge. The symposium drew approximately 1000 attendees.

## **6. Communications Activities**

**Increased Social Media Presence and COAF Branding:** COAF conducted outreach to expand its social media presence and consulted with the State Bar Communications Director to explore other approaches to expand COAF’s media presence. COAF also created business cards with the COAF pipeline goal, listing officers and committee chairs for distribution by COAF members at various community events.

## **7. EOB Programming and Resources**

**Presented two successful elimination of bias programs during the State Bar Annual meeting:**

### **“22 Lewd Chinese Women—*Chy Lung v. Freeman*:**

The program featured a trial reenactment (created by the Asian American Bar Association of New York) on the case of *Chy Lung v. Freeman*. The case involved Chinese women who were traveling without husbands and who were detained at the Port of San Francisco as “lewd women”. The case went all the way up to the US Supreme Court and raised issues of immigration and federalism, as well as issues of sexism, racial profiling and human trafficking.

**A Debate on Affirmative Action:** In the wake of the decision in *Fisher v. University of Texas*, a debate was presented focusing on whether Affirmative Action should be included as a criterion for admissions in higher education: The question was debated by Equal Justice Society President Eva Paterson and Prof. Miranda Oshige McGowan (University of San Diego School of Law) on the “Pro” side and Ward Connerly (Founder and President, American Civil Rights Institute) and Prof. Gail Heriot (also from USD School of Law and a member of the U.S.

Commission on Civil Rights) on the “Con” side. Former State Bar President and former Ambassador to Australia, Jeff Bleich, served as moderator for the debate.

**COAF Presentations for Outside Entities:** COAF also provided EOB presentations at the invitation of a number of outside entities including: The Northern District Judicial Conference, Practising Law Institute Year-End MCLE Programming, USC Gould School of Law Tax Institute, Institute on Entertainment Law and Business, American Immigration Lawyers Association Annual Conference, Workers Compensation Attorneys Educational Conference, National Association of Women Judges, and the San Joaquin County Federal Bar.

**8. Annual Diversity Awards and Education Pipeline Awards:**

COAF conducted extensive outreach to solicit nominations for the 2016 Diversity and Education Pipeline Awards. COAF reviewed nominations and made recommendations to the Board of Trustees for Diversity Awards to an individual bar association, law firm and non-profit organization acknowledging long term, documented achievements increasing diversity in the legal profession. Recommendations were also made for the recipient of the Education Pipeline award, designed to recognize an exceptional program educating students about the justice system and careers in the law. Awards were presented at the State Bar Annual Meeting in San Diego.

**9. Annual Planning Retreat:** COAF conducted its annual planning retreat in November 2016 to focus on the existing Long Range Plan and to discuss new trends and challenges for future consideration. The Draft Long Range Plan also presented to the Stakeholders, Access to Justice and Appointments Committee and to the full Board of Trustees is the product of that planning process.

**Fundraising** – COAF engages in annual fundraising to supplement the approved COAF annual budget and to enable COAF to conduct additional programs and events aligned with its approved mission and goals. In 2016 COAF raised \$25,250 from 16 various sponsors. The funds were used for the annual Diversity Awards Reception and the 2016 Judicial Summit. Anticipating the shortfall for 2017, COAF outreach was conducted to encourage stakeholders to contribute the \$10 EOB donation listed on the 2017 Annual Dues Statement. With the short timeframe and minimal outreach plan, over \$86,000 was generated through the voluntary donation on the Annual Dues Statement.