

**COUNCIL ON ACCESS AND FAIRNESS (COAF)**  
**NOTES AND ACTION SUMMARY**

Friday, December 6, 2019  
10:00 a.m. - 4:00 p.m.

State Bar of California  
180 Howard Street, Cushman Conference Room (4<sup>th</sup> Floor), San Francisco  
845 South Figueroa Street, Room 2AB, Los Angeles

**Council Members**

Chair Judge Brenda Harbin-Forte  
Vice-Chair Judge Esther Kim  
Heather Anderson  
Connie Broussard  
Ryan Harrison  
Geneviève Jones-Wright  
Judge Kristin Rosi  
Sal Torres

**Public**

Donna Schuele

**Staff**

Carolina Almarante  
Christal Bundang  
Erica Carroll  
Lisa Cummins  
Brady Dewar  
Donna Hershkowitz  
Christine Holmes  
Elizabeth Hom  
Hellen Hong

**I. CHAIR'S REPORT**

**A. Roll Call**

Chair Judge Brenda Harbin-Forte called the meeting to order at 10:08am and welcomed attendees. Roll call was taken and a quorum was established.

COAF members congratulated to Judge Esther Kim on her recent judicial appointment.

**B. Call for Public Comment**

Judge Brenda Harbin-Forte inquired if there was any member of the public wishing to make a public comment. No member of the public came forward.

**II. CONSENT**

**A. Approval of Meeting Summary and Action Items from September 25, 2019**

The Council approved by roll call vote (Sal Torres moved, Connie Broussard seconded) the Meeting Summary and Action Items from the September 25, 2019 meeting.

### **III. STATE BAR REPORTS**

#### **A. Amendments to Strategic Plan Objectives**

Elizabeth Hom, Program Supervisor in the Office of Access & Inclusion (OA&I), reported on the Board of Trustees (BOT) agenda item that was presented in November. The BOT approved extending the deadlines from December 31, 2019 to December 31, 2020 for the following COAF-related objectives: Objective (h) regarding law school retention, Objective (i) regarding diversity in bar exam development and grading analysis, and Objective (m) regarding Elimination of Bias in the Minimum Continuing Legal Education (MCLE) requirements.

An updated COAF work plan will be presented to the Council in February, for BOT approval in March 2020. COAF members requested that staff provide an ongoing document with timelines reflecting progress and deadlines regarding its related objectives.

#### **B. Report on Disparities in the Discipline System**

Ron Pi, Principal Program Analyst of the Office of Research Institute & Accountability (ORIA), presented findings from the State Bar's study on disparities in the attorney discipline system. Results show that male attorneys have higher probation and disbarment/resignation rates than females, and that racial discrepancies are higher among males than females. In addition, the largest racial differences were between Black and White male attorneys. [Dr. Farkas' report](#) will be presented to the Office of Chief Trial Counsel (OCTC). Further analysis is still needed to understand specific factors attributing to these disparities.

COAF members asked about other factors including potential cultural sensitivity issues and the impact of implicit bias in OCTC or other actors in the study. COAF members also asked about the attorney complaint intake process, including OCTC staff training. COAF requested the opportunity to provide feedback regarding any changes to internal procedures in the complaint process and the opportunity to provide input on recommendations regarding next steps for the study.

#### **C. Update on California Bar Exam Strategies and Stories Program (Strategic Plan, Goal 4, Objective k)**

Elizabeth reported on the Strategies and Stories Program, which COAF encouraged the State Bar to participate in, and was originally named the Productive Mindset Intervention Study. The Strategies and Stories Program study was first conducted in

July 2018 and yielded positive bar passage results for a small sample size. The State Bar replicated the study for the July 2019 administration of the California Bar Examination. Results will be analyzed in January 2020 and staff will provide an update of the final report once it is available.

#### **IV. DISCUSSION AND ACTION ITEMS**

##### **A. Review and Provide Feedback on Proposed Diversity Report (Strategic Plan, Goal 4, Objective I and Goal 4, Objective n)**

COAF member Sal Torres presented on behalf of the working group. The working group provided initial feedback on an outline of the State Bar's Diversity Report, which will focus on describing California's attorneys, areas for opportunities and specific "call to action" boxes for the readers. The group will provide additional feedback before the report is published on January 31, 2020.

##### **B. Update on Diversity Summit Planning for 2020**

Elizabeth thanked COAF members for participating in the 2019 Diversity Summit. Based on feedback regarding the different challenges and opportunities in legal sectors, there will be three diversity summits in 2020, based on the three sectors - private, government and non-profit. In preparation for the 2020 Summits, the following COAF members volunteered to be part of the following working groups:

- Judge Brenda Harbin-Forte: private, government or non-profit
- Judge Esther Kim: government and non-profit
- Connie Broussard: government and private
- Kristin Rosi: government
- Sal Torres: private

##### **C. Update on Judicial Diversity Toolkit (Goal 4, objective o) and Other Judicial Diversity Initiatives**

Judge Brenda Harbin-Forte reported that the toolkit is now available on the Judicial Council's website. COAF also updated tips on completing an application for Superior Court appointment, which may be also available online in the future.

Judge Brenda Harbin-Forte also presented on the status of judicial diversity to the Judicial Nomination Evaluation (JNE) Commission in October, and will be presenting at Beyond the Bench 2019 in San Diego on December 16.

**D. Update on Plan to Address Law School Retention (Goal 4, Objective h)**

Sal presented on behalf of the working group. The working group provided input on the law student survey and will provide COAF with updates on future implementation efforts.

COAF discussed ideas to consolidate available information regarding diversity programs or initiatives in law schools, law firms and other organizations and make that information an available resource on the State Bar website. Hellen Hong, Director of the Office of Access & Inclusion, noted that the California Lawyers Association is developing their diversity and inclusion priorities and may have a similar project as a part of their efforts, and that staff will work with them to coordinate efforts.

**E. Discussion and Approval of Next Steps for Modification of Elimination of Bias MCLE Rules (Goal 4, Objective m)**

Erica Carroll, Senior Program Analyst in OA&I, shared updates to COAF's recommendations regarding elimination of bias MCLE rules. After consultation with Attorney Regulation and Consumer Resources and review of Business & Professions Code section 6070.5, staff recommended minor modifications to clarify the new rule's implementation dates and to allow for flexibility regarding the implicit bias requirement. COAF discussed the qualifications for trainers and discussed its involvement in the development of implicit bias training materials.

The Council approved by roll call vote (Sal Torres moved, Kristin Rosi seconded) to recommend to the Board of Trustees that the modified Elimination of Bias MCLE Rules to be put out for public comment in January 2020.

**F. Update on Efforts to Institutionalize Diversity and Inclusion Goals in Bar Exam Question Development and Grading(Goal 4, Objective i)**

Lisa Cummins, Program Manager in the Office of Admissions, and Doan Nguyen, Program Supervisor in OA&I, presented an overview of the current California Bar Exam Graders, Pre-Testers and Examination Development & Grading (EDG) team, including demographic data. For all three groups, majority were White and over 40 years old.

The COAF working group will work with staff to develop strategies and recommendations to increase diversity of the EDG team, pre-testers, and graders.

**G. Update on Early Pipeline Proposal Request to Board of Trustees**

COAF sent a letter to the BOT to request expand the COAF charge and work plan to include the early education pipeline, and to appoint a California LAW liaison. The BOT will discuss these requests during its January 23 planning session.

**H. Adopt Recommendation Regarding COAF Size**

Judge Brenda Harbin-Forte discussed the history of COAF's membership size. Given COAF's breadth of diversity and inclusion work, which is integrated in all facets of the State Bar, COAF identified the need for additional members to help carry out its work.

The Council approved by roll call vote (Sal Torres moved, Ryan Harrison seconded) to recommend to the Programs Committee and Board of Trustees to increase COAF's size from 10 to 15 members.

Judge Brenda Harbin-Forte and Judge Esther Kim will draft a letter to be presented to the Programs Committee for the BOT's consideration in March 2020.

**I. Overview of the Commission on Judicial Nominees Evaluation's Comprehensive Mailing Plan for Soliciting Feedback on Judicial Candidates through Confidential Comment Forms**

JNE Commissioner Maureen Onyeagbako gave an overview of JNE and reviewed the mailing rules regarding Confidential Comment Forms (CCFs). COAF members shared concerns that they have not received timely CCFs or any CCFs for candidates. OA&I staff will follow up with JNE staff regarding the State Bar administrative processes for CCF distribution.

**J. Discussion of Additional Diversity and Inclusion Initiatives**

COAF brainstormed several ideas for additional diversity & inclusion initiatives. COAF agreed that a social media-driven communications campaign would be most impactful to effectuate the State Bar's Strategic Plan objectives. Ideas included

- Creating strategic partnerships with sports teams to feature lawyers who work in the industry (like Steve Young)
- Video Campaigns on YouTube with diverse attorneys
- Featuring Latino lawyers with untraditional careers
- Live appearances/guest speaking at high schools and colleges

Staff will work with COAF to integrate suggestions in the 2020 work plan.

There being no other business, the meeting was adjourned at 3:01pm.

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