

**COUNCIL ON ACCESS AND FAIRNESS (COAF)
MEETING SUMMARY AND ACTION ITEMS**

Friday, February 14, 2020
10:00 a.m. - 4:00 p.m.

State Bar of California
180 Howard Street, Room 8B, San Francisco
845 South Figueroa Street, Room 2A, Los Angeles

Council Members

Chair Judge Brenda Harbin-Forte
Vice-Chair Judge Esther Kim
Heather Anderson
Connie Broussard
Ryan Harrison
Genevieve Jones-Wright
Judge Kristin Rosi
Donna Schuele

BOT Liaisons

Jose Cisneros

Staff

Carolina Almarante
Christal Bundang
Erica Carroll
Lisa Cummins

Brady Dewar
Christina Doell
Donna Hershkowitz
Kenneth Holloway
Christine Holmes
Elizabeth Hom
Hellen Hong
Dag McLeod
Doan Nguyen

I. CHAIR'S REPORT

A. Roll Call

Chair Judge Brenda Harbin-Forte called the meeting to order at 10:05 a.m. and welcomed attendees. Roll call was taken and a quorum was established.

B. Call for Public Comment

Judge 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 December 6, 2019

The Council approved by roll call vote (Kristin Rosi moved, Vice-Chair Judge Esther Kim seconded) the Meeting Summary and Action Items from the December 6, 2019 meeting.

III. STATE BAR REPORTS

A. Presentation from the Board of Trustees Strategic Planning Panel: Ensuring Effective and Fair Attorney Discipline System

Dag McLeod, Chief of Mission Advancement & Accountability, provided updates from the BOT's Strategic Planning Panel session held on January 23.

After the Farkas report was published in November 2019, the State Bar contracted Professor Robertson at the University of Arizona, who specializes in blinding as a way to eliminate implicit bias. He met with the Office of Chief Trial Counsel (OCTC) to learn about its processes and reviewed the Rules of Professional Conduct.

Professor Robertson made the following proposal which covers five different areas:

- Evaluate the disproportionate amount of reportable action bank matters
- Review OCTC's screening process of an attorney's prior records
- Encourage disciplined attorneys to seek representation
- Implement blinding strategies, such as a panel to review OCTC decisions.
- Document the current composition of OCTC staff and consider recruiting more diverse staff

The options will be refined and presented to the Board of Trustees (BOT) in July. In line with Goal 4, objective I regarding retention of diverse attorneys, COAF discussed its potential role in providing input to OCTC

B. Update on Board of Trustees Strategic Planning Panel: COAF Scope of Work

Judge Harbin-Forte updated COAF regarding its proposal to expand the pipeline. Although she attended the BOT meeting in January, she decided to defer presenting the proposal until the BOT's March 12 meeting in order to get more information to support COAF's proposal.

She shared a recent study, *Highlights from Before the JD: Undergraduate Views of Law School*, which is based on a national survey conducted by Gallup for the Association of American Law Schools. Judge Harbin-Forte plans to include highlights from the survey during her presentation in March. In addition, COAF discussed additional reasons to expand the pipeline such as considering the overall goal of longevity and continuity, the lag time in seeing an unintended negative impact of cutting the timeline, and having an opportunity to explore undergraduate motivations for pursuing a JD.

C. Presentation on California Justice Gap Study

Hellen Hong, Director of the Office of Access & Inclusion, presented findings from the California Justice Gap Study. According to the study, there is a justice gap at all income levels in California with health, finance and employment as the main problems. In addition, students of color who are leaving legal aid have debt from

\$200-\$225K. The next phase of the study will be to conduct the survey in multiple languages and analyze that data.

IV. DISCUSSION AND ACTION ITEMS

A. Update on Diversity Report (Strategic Plan, Goal 4, Objective i and Goal 4, Objective n)

COAF member Ryan Harrison provided an update regarding the *First Annual Report Card of the Diversity of California's Legal Profession*, which is on track to be published in March 2020. The working group met in January and February to provide input regarding the report's content and ideas for outreach.

B. Update on Diversity Summit Planning for 2020

Elizabeth Hom, Program Supervisor of the Office of Access & Inclusion, updated COAF regarding the three diversity summits planned for 2020. She recently surveyed the working group members to gather input regarding possible speakers and invitees, and will schedule more in-depth planning calls after the diversity report is published.

COAF members also recommended some potential speakers, such as Attorney General Xavier Becerra, the Los Angeles County District Attorney Jackie Lackey and Contra Costa County District Attorney Diana Becton.

C. Update on Judicial Diversity Toolkit (Goal 4, Objective o) and other Judicial Diversity Initiatives

Elizabeth reported that staff is still in the process of collecting background information from JNE about Rule 7.47(B) regarding distribution of confidential questionnaires. Staff is also working with the Communications department to develop a resources page for D&I resources, like tips for completing the judicial application.

Judge Harbin-Forte also updated COAF regarding the Judicial Summit, which COAF took the lead on in 2016 and requested to add completing the Judicial Summit Report to the COAF workplan. In anticipation for a 2021 summit, Judge Harbin-Forte will continue to coordinate with Judicial Council. She also shared that there was a recent approval of judgeships in the Inland Empire courts due to understaffing issues. Judge Kim also reported that about 60 people attended the "So You Want to be a Judge" panel held in Southern California.

Hellen reported that the California Lawyers Association is working on its D&I and access to justice plan, and identified this as an opportunity to collaborate with COAF.

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

Christal Bundang, Senior Program Analyst of the Office of Access & Inclusion and Carolina Almarante, Senior Program Analyst of the Office of Research & Institute Accountability provided updates.

Since the last COAF meeting, the State Bar decided to postpone administration of the law student survey planned for Spring 2020. COAF members Donna Schuele and Sal Torres met in February to discuss potential work plan activities, including following up with law schools for supplemental information from the law school survey, identifying promising programs and eventually developing a best practices guide or resource.

Carolina presented key findings from the 2018 ABA Academic Attrition data. Staff is working with CAL-accredited and registered law schools to collect attrition data for equitable comparisons with California ABA schools.

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

Erica Carroll, Senior Program Analyst of the Office of Access & Inclusion, reported that after the last COAF meeting, there was some ambiguity regarding which MCLE providers would need to meet the requirements set forth by the proposed MCLE Rule 3.602(F). Staff reached out to current MCLE providers for input. Erica presented three options to COAF – 1) do nothing, 2) make the rule applicable to all EOB MCLE providers or 3) make the rule apply only to MCLE providers that include a component on implicit bias.

The Council approved by roll call vote (Donna Schuele moved, Judge Kim seconded) to approve proposed rules revision option 3 for Rule 3.602(F), which reads: (F) beginning January 1, 2022, if providing training with, or including a component dealing with, implicit bias and the promotion of bias-reducing regarding race, ethnicity, gender identity, sexual orientation, socioeconomic status, or other characteristics undermine confidence in the legal system, attend to the following...”

The proposed rule will be presented to the BOT in March and staff will request that the proposed rule be put out for public comment. Judge Kim and Connie Broussard will report back to COAF at its next meeting.

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

COAF member Heather Anderson presented the working group's preliminary recommendations on codification of diversity and inclusion principles in bar exam development and grading analyses. These recommendations include expanding the geographic requirement from Bay Area to statewide, considering potential graders who have passed the bar in their third attempt and creating a more objective and transparent scoring rubric for selecting graders. Heather and Genevieve Jones-Wright also requested additional data from the Office of Admissions regarding its own staff and bar exam proctors.

COAF also strongly encouraged the Office of Admissions to administer implicit bias training for its current graders for the February bar exam.

G. Update on COAF Appointments for 2020-2021

Elizabeth reminded COAF there will be up to six vacancies and that applications are due on March 13. COAF members interested in serving as Chair or Vice Chair should send a letter of interest and resume to Elizabeth.

H. Approve 2020 Work Plan

COAF provided feedback regarding its proposed 2020 Work Plan activities and deadline dates.

The Council approved by roll call vote (Judge Kim moved, Connie Broussard seconded) the 2020 COAF Work Plan. The COAF Work Plan will be presented to the BOT at its March meeting.

I. Discussion of Additional Diversity and Inclusion Initiatives

There was discussion about initiatives discussed at the previous COAF meeting and how to integrate those ideas into the 2020 Work Plan.

There being no other business, the meeting was adjourned at 2:52 p.m.