

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

Friday, August 28, 2020  
10:00 a.m. - 4:00 p.m.  
State Bar of California  
**Zoom Meeting**

***OPEN SESSION***

Chair Judge Brenda Harbin-Forte called the meeting to order at 10:06 am. Roll call was taken and quorum was established.

**I. ROLL CALL**

**2019-2020 Members**

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

**2020-2021 Members**

Novella Coleman  
Sarah Good  
Michael Rhoads  
Chalak Richards  
Stephanie Chu Santoro

**Board of Trustees**

**Liaisons**

Hailyn Chen  
Jose Cisneros

**Liaison**

Pat Lee  
Kenneth Wang  
Judge Erica Yew

**Staff**

Christal Bundang  
Erica Carroll  
Lisa Chavez  
Brady Dewar  
Lisette Garcia  
Donna Hershkowitz  
Elizabeth Hom  
Christine Holmes  
Melanie Lawrence  
Dag McLeod  
Doan Nguyen

**II. CALL FOR PUBLIC COMMENT**

Chair Judge Harbin-Forte invited members of the public. No public comment was made.

**III. CHAIR'S REPORT**

**A. Introduction of Liaisons from California Lawyers Association (CLA), California Leadership Access Workshop (California LAW), and Judicial Council.**

Judge Harbin-Forte thanked the Council's outgoing members, Connie Broussard, Geneviève Jones-Wright and Donna Schuele for their hard work during their terms. She also announced that Judge Esther Kim will be the incoming Chair and Ryan Harrison will be the incoming Vice Chair for the 2020-2021 term and welcomed the new members attending the meeting. Judge Harbin-Forte also introduced the Council's new liaisons – Kenneth Wang from California Lawyers Association (CLA), Pat Lee from California LAW, and Judge Erica Lee from Judicial Council.

Vice Chair Judge Kim also thanked Judge Brenda for her contributions as Chair and presented a small gift on behalf of the Council.

#### **IV. CONSENT**

##### **A. Approval of Meeting Summary and Action Items from May 29, 2020 Meeting**

The Council approved by unanimous roll call vote (Judge Kim moved, Ryan Harrison seconded) the Meeting Summary and Action Items from the May 29, 2020.

#### **V. STATE BAR REPORTS**

##### **A. Presentation and Discussion on the Attorney Discipline System**

Melanie Lawrence, Interim Chief Trial Counsel in the Office of Chief Trial Counsel (OCTC) provided an overview of the attorney discipline system and update regarding fingerprinting. This review included the typical life cycle of complaint and the difference between non-disciplinary and disciplinary outcomes. The State Bar does not have authority for permanent disbarment and is limited to making recommendations to the Supreme Court. State Bar trials are currently being conducted via Zoom.

Dag McLeod, Chief of Mission Advancement & Accountability, also provided updates regarding the Board of Trustees' response to the report by Professor George Farkas on racial disparities in the attorney discipline system, and the subsequent evaluation and recommendations made by Professor Christopher Robertson, which were presented recommendations at the July 2020 Board of Trustees meeting. Professor Robertson's recommendations for possible courses of action for the Board to consider include: having OCTC archive complaints closed without discipline, exploring a proactive non-disciplinary system to support attorneys at higher risk of future complaints, and revising existing policy for handling de minimus bank overdrafts for Reportable Bank cases. BOT has directed staff to implement a number of the recommendations and provide a status report at its September 2020 meeting.

#### **VI. DISCUSSION AND ACTION ITEMS**

##### **A. Review of COAF Work Plan, approved May 14, 2020**

There was no update on this standing agenda item.

##### **B. Update on First Annual Diversity Report Card (Strategic Plan, Goal 4, Objective i and Goal 4, Objective n)**

This update was combined with item VI.C.

##### **C. Update on Diversity Summit Planning for 2020 (Goal 4, Objective I)**

Acting Program Manager Elizabeth Hom, Senior Program Analyst Christine Holmes from the Office of Access & Inclusion, and Lisa Chavez, Program Director and Lissette Garcia, Program Analyst from the Office of Research & Institutional Accountability (ORIA) provided an update regarding the First Annual Diversity Report Card and 2020 Diversity Summit Planning.

The first sector specific diversity summits will be for the private sector, and is scheduled for September 11 via Zoom. Although this is an invitation only event,

Elizabeth advised the Council to let her know if additional attendees should be invited. There will be two and a half hours of content and small group discussions. Christine gave a presentation preview of the First Annual Diversity Report Card and the Council provided feedback.

The second summit will be for the non-profit sector and is planned for December 2020 and the third summit will be for the government sector is planned for early 2021. Staff will reach out to working group members closer to those dates.

Lisa provided updates about the attorney census. The 2020 census data is still being analyzed. The goal is for the 2020 data to be available online in a dashboard format. For 2021, ORIA will ask similar questions to 2020 but plans to make updates to the gender identity question, in response to feedback. The 2020 survey will be taken down on November 1 and the 2021 attorney census survey will be made available on the My State Bar Profile during the regular billing cycle.

The Council made suggestions about questions regarding the gender, race and ethnicity categories and expressed concern about adequate messaging to ensure a good response rate.

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

Senior Program Analyst Christal Bundang provided updates regarding law school retention. The working group met in June to brainstorm potential categories for a second survey to the law schools. Staff is working with ORIA to refine the questions and will also be working with contacts from ABA-accredited, CAL-accredited, and registered law schools to get input on the questions and beta-test the survey on Qualtrics. The survey is planned to be administered in the fall.

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

Heather Anderson provided reported on several updates to the bar exam development and grading processes. Demographic questions have been added to grader application, all graders must now participate in implicit bias training and there are plans for targeted outreach for apprentices and graders. Heather also shared that calibration sessions are now being conducted via Zoom.

**F. Update on Request from Committee on State Bar Accredited and Registered Schools (CSBARS) for Feedback on Proposed Rules Revisions (Goal 4, Objective h)**

Judge Kristin Rosi reported that she and Donna reviewed the proposed rules revisions. During their review, they discovered that one California law school openly discriminates against LGBTQIA students but was permitted to do so under a religious organization exemption. The working group determined that the best language to use was that CSBARS rules should be consistent with California law. The revisions are currently under review by the Committee of Bar Examiners

**G. Update on Modification of Elimination of Bias MCLE Rules (Goal 4, Objective m)**

Senior Program Analyst Erica Carroll provided a summary of the public comments made regarding the proposed MCLE rule change to increase the Elimination of Bias (EOB) requirement from one hour to two hours, and to incorporate implicit, bias and the promotion of bias-reducing strategies into the EOB course components. Overall, most public comments were in favor of the change, indicating that it would help increase diversity and inclusion awareness and provide tools to mitigate bias. Comments also suggested further action such as increasing the hours and having an anti-racism requirement. There were public comments opposed to the change, indicating that attorneys wanted to focus more on their practice areas, that MCLE was generally unhelpful and that implicit bias did not exist. The working group is also developing an e-learning course focused on implicit bias, and is contacting several content experts.

The Council approved by unanimous roll call vote (Vice Chair Kim moved, Ryan Harrison seconded) staff and working group's recommendation that COAF submit the proposed MCLE EOB rules changes to the Board as circulated, without amendment, and recommend adoption of the proposal, effective November 1, 2020, and to incorporate the appropriate effective date based on the legislature's activity.

**H. Update on Early Pipeline to the Profession Outreach Materials Development (Goal 4, Objective l)**

**i. Update on "Want to be a Lawyer" brochure**

Judge Kristin Rosi shared updates regarding newly renamed "Be a Lawyer – Make a Difference" brochure. The brochure is intended to be a leave behind, but an electronic version will also be available on the State Bar website. The working group updated the content so that it will be more dynamic and use street law language, changed the featured role models to David Kelley, Lisa Cisneros, Alexander Chen and Alicia Valencia, and tried to make legal education more approachable. The next steps will be to gather role model photos and bios and working with designee to finalize the draft.

**ii. Update on Attorney Video Project**

Ryan Harrison reported that the working group is in the process of planning interview logistics with David Kelly to discuss his non-traditional role as an attorney.

**I. Discussion with Legal Services Trust Fund Commission (LSTFC) Chair on Barriers to Issues Related to Entry Into the Profession and Retention and Advancement of Diverse Lawyers in the Legal Services/Nonprofit Sector (Goal 4, Objective l)**

Banafsheh Akhlaghi, Chair of the Legal Services Trust Fund Commission, had an initial discussion with the Council on ways how both State Bar entities could work together to make the greatest impact for overlapping issues, such as access to justice and retention in public interest careers, specifically in non-profit legal service organizations.

Banafsheh and the Council discussed the possibility of having a working group consisting of members from both entities to further explore solutions to these crossover issues.

**J. Review and Discussion of Final 2016 Judicial Diversity Summit Report and Recommendations (Goal 4, Objective o)**

Chair Harbin-Forte reviewed the final 2016 Judicial Diversity Summit Report and Recommendations, which has been shared with CLA and the Judicial Council.

**K. Update on Judicial Council Requests for Assistance on Judicial Diversity Initiatives (Goal 4, Objective o)**

There was no update for this agenda item.

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

Acting Program Manager Elizabeth Hom reported that pursuant to Business & Professions Code section 6001.3 staff submits a bi-annual report to the legislature regarding the State Bar's DEI activities. This agenda item will be a placeholder for Council recommendations and ideas for staff to include in the upcoming two-year plan, which is due in March 2021. Elizabeth will work with Vice Chair Judge Kim and Ryan to develop ideas. The Council will have an opportunity to discuss ideas at its December meeting.

Some initial ideas from the Council are to have more Elimination of Bias hours focused on anti-racism, implement an ethical policy for attorneys or officers of the court for reprehensible comments and actions, and developing more impactful training.

**VII. LIAISON REPORTS**

**A. California Lawyers Association (CLA) Report on Diversity and Inclusion Initiatives**

Liaison Kenneth Wang shared that CLA was looking into the profile videos related to the Attorney Video Project and that CLA is planning a judicial diversity summit in 2021.

**B. California Leadership Access Workforce (California LAW) Report on Diversity and Inclusion Initiatives**

Liaison Pat Lee reported that California LAW was going through major restructuring and provided an overview of the organization's mission and work. California LAW will be planning its Pathway to Law summit and Annual Law Day.

**C. Judicial Council Report on Diversity and Inclusion Initiatives**

Liaison Judge Erica Yew did not have any updates from Judicial Council Liaison but wanted to share recent activity from the California Access to Justice Commission (CAL ATJ). CAL ATJ started a new committee on racial justice and intersectionality and is planning a symposium focused on considering issues after the eviction moratorium through an anti-racist lens.

**VIII. ADJOURN**

There being no other business, the meeting was adjourned at 3:43 p.m.