

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

Friday, February 5, 2021
12:30 p.m.–5:00 p.m.
State Bar of California
Zoom Meeting

OPEN SESSION

Chair Judge Esther Kim called the meeting to order at 12:34 pm. Roll call was taken and quorum was established.

I. ROLL CALL

Members

Chair Judge Esther Kim
Vice Chair Ryan Harrison
Heather Anderson
Novella Coleman
Sarah Good
Michael Rhoads
Chalak Richards
Judge Kristin Rosi
Stephanie Chu Santoro
Sal Torres

Board of Trustees

Jose Cisneros

Organization Liaisons

Pat Lee
Judge Erica Yew

Staff

Erica Carroll
Andrea Fitanides
Donna Hershkowitz
Christine Holmes
Elizabeth Hom
Gagandeep Kaur
Judi McManigal
Doan Nguyen

II. CALL FOR PUBLIC COMMENT

Chair Judge Esther Kim invited members of the public to make public comment. There were none.

III. CHAIR'S REPORT

Chair Judge Esther Kim welcomed everyone, thanking members for their service on the Council. Due to scheduling, she requested that Judge Yew's Judicial Council liaison report be taken out of order.

IV. CONSENT

A. Approval of Meeting Summary and Action Items from December 10, 2020 Meeting

The Council approved by unanimous roll call vote (Ryan Harrison moved, Judge Kristin Rosi seconded) the Meeting Summary and Action Items from the meeting held December 4, 2020.

V. STATE BAR REPORTS

A. Update on Office of Access & Inclusion Activities and Staffing

Andrea Fitantes, Director of the Office of Access & Inclusion (OA&I), shared that she will be transitioning to a pro bono counsel law firm role. She wishes to continue to support the office's efforts and will stay engaged in several projects. She announced that Elizabeth Hom and Doan Nguyen will co-lead the team as Program Managers.

COAF appointment applications for the 2021-22 term will be open shortly. It is anticipated that there will be one opening.

Andrea provided additional updates on OA&I activities, including funding for Provisionally Licensed Lawyers and the hiring of two new Senior Financial Analysts who will be starting February 8. This will increase the team's finance and IT expertise and will strengthen their grant-making work. OA&I will also be hiring a new Senior Program Analyst.

B. Update on Initiatives to Improve the Attorney Discipline System

Program Supervisor Elizabeth Hom announced that the BOT made appointments to the Ad Hoc Commission on the Discipline System and congratulated Sarah Good on her appointment as COAF representative to that Commission. The application process has been reopened and the Commission is seeking the representation of groups most disproportionately impacted by the discipline system. Applications will be open until February 22.

Ryan Harrison expressed concern that no African American males were appointed to this commission. He will be working with the California Association of Black Lawyers to reach out to potential applicants. He requested other COAF members assist in this effort.

Information on the commission can be found at [Ad Hoc Commission on the Discipline System](#).

VI. DISCUSSION AND ACTION ITEMS

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

COAF members reviewed the current Work Plan, which outlines the specific projects and actions to be undertaken to advance strategic goals and objectives.

B. Update on Diversity Summit Planning for 2021 (Goal 4, Objective I)

Working group member Michael Rhoads and Elizabeth Hom provided updates on the 2020 Diversity Summits. The Private Sector Summit was held on September 11, 2020. Speakers presented the Diversity Report Card and held a panel discussion with law firm and in-house legal department leaders. There were approximately 50 attendees via Zoom.

The Nonprofit Sector Summit was held on December 11, 2020 and was presented in partnership with the Legal Aid Association of California (LAAC). Speakers presented both the Diversity Report Card and LAAC's Recruitment and Retention Report. There was a panel discussion with legal aid leaders and a training on race equity through a Health and Safety lens. There were approximately 50 attendees via Zoom.

The Government Sector Summit date is still being determined. Potential topics for the agenda include: a review of Attorney Census data for the government sector; discussion of the importance of and common barriers to recruitment, retention, and advancement of diverse attorneys in the government sector; presentation on limitations under Proposition 209; and presentations on model local/state/federal government agencies on existing programs.

Elizabeth welcomed suggestions for additional Diversity convenings for 2021. Some potential ideas include a summit to share the 2020 Report Card and sector-specific findings, and an examination of the pandemic survey findings. The working group will continue to plan the Government Sector Summit and will add working groups as needed to develop additional convenings.

C. Update on Attorney Pandemic Survey (Goal 4, objective k)

Senior Program Analyst Christine Holmes thanked Sarah Good, Michael Rhoads and Sal Torres for their participation in the working group. She provided an update on the development and timeline for the attorney pandemic survey. The survey is designed to assess the impact of the COVID-19 pandemic on attorneys, especially on diverse attorneys, and the perceived efforts of employers to recruit and retain a diverse attorney workforce.

The survey is in response to a suggestion from the Private Sector Diversity Summit. Information will be gathered for both before the pandemic and now, including: employment; workplace resources; workplace experiences like work/life balance, diversity and inclusion, racial justice and anti-racism, and pro bono; financial concerns; and demographics.

The survey will be administered via Qualtrics in March 2021 to all attorneys through a unique survey link. Interim Executive Director Donna Hershkowitz added that the State Bar is waiting until March to release the survey to optimize

survey responses and avoid survey fatigue due to the annual Attorney Census, which is conducted in tandem with the attorney licensing fee cycle that closed on February 1. The pandemic survey's introductory text will explain why this survey is different and why it is important.

In response to questions from COAF members, Christine responded that the survey covers issues with managing childcare, elder care or caring for household members with illness or disabilities.

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

Elizabeth Hom provided an update on behalf of the working group. The law school survey was sent out in October 2020, and as of February 5, 2021, 42 responses have been received. Staff continues to follow up for additional responses. The survey collected information regarding student recruitment, academic support, non-academic support, mentorship, career development, faculty and staff, financial support, and key performance indicators.

Staff will work with the working group to review and analyze survey responses in tandem with attrition data from the Annual Report from California-accredited and unregistered law schools and the 509 Report from ABA-accredited schools. The goal is to develop a resource to highlight best practices by September 2021. COAF members suggested that cultural support and issues related to transgender and gender-nonconforming students be considered.

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

Working group member Sal Torres provided an update. The working group met on December 18, 2020 for an overview. The next meeting will be in April 2021, when they will examine bar exam questions and grading, and talk with a Scantron representative about how to interpret the questions. The group will review 10-15 exam questions.

Donna Hershkowitz added that the key task that this group can accomplish is to assess whether some questions are deemed to have a disparate impact. These types of questions are especially important to provide guidelines to the test writers to avoid these traps.

F. Update on Committee on State Bar Accredited and Registered Schools (CSBARS) Proposed Rules Revisions (Goals 4, Objective h)

Elizabeth Hom reported that a working group comprised of COAF member Judge Kristin Rosi and former COAF member Donna Schuele had provided input on the CSBARS proposed accreditation rules. The rules are out for comment until February 15, 2021, then will go to the BOT in March. Elizabeth is now requesting

a volunteer to join the working group to provide input on guidelines to implement the proposed rules; Sarah Good volunteered.

G. Update on Modification of Elimination of Bias MCLE Rules and Implicit Bias Online Training Module (Goal 4, Objective m)

Senior Program Analyst Erica Carroll provided an update on the implicit bias training module. Together with Judge Esther Kim and Novella Coleman, this working group is developing a one-hour, online, free MCLE with a focus on implicit bias. The training is being developed with a content expert and an e-learning course designer. Erica provided a course overview. The content will be updated every three years to keep it current. Targeted completion is May 2021.

Suggestions from members included sharing this training with our CSBARS stakeholders for use by law school professors and administrators, and doing pre- and post-training assessments in order to gauge the effectiveness of the training.

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

Judge Esther Kim reported that there is no update on this item, but she encouraged everyone to widely share the “Be a Lawyer, Make a Difference” [digital brochure](#) and [PDF brochure](#), as well as the [video of Golden State Warriors general counsel David Kelly](#). These can be forwarded to contacts, students mentored or anyone who would benefit. Judge Kristin Rosi suggested sharing with ABA judicial outreach.

Elizabeth Hom will recirculate the links, and noted that the materials have been shared with the California Lawyers Association.

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

Judge Esther Kim reported that she and Judge Erica Yew participated on a judicial diversity panel with LAAC. They also worked with COAF to create guidance on completing the application for judicial appointment and did a training on this topic.

J. Review Draft 2021 COAF Work Plan

Elizabeth Hom led a discussion on minor edits to the item on implicit bias training for State Bar proctors, graders, admissions and exam development staff. The Council approved by unanimous roll call vote (Heather Anderson moved, Sal Torres seconded) the 2021 COAF Work Plan. Elizabeth noted that the BOT will review the Work Plan at its March meeting.

1. Update on Law School Loan Repayment Assistance Program (LRAP) and Loan Forgiveness

Judge Kristin Rosi reported that she and Heather Anderson met in January with the Legal Services Trust Fund Commission, the California Access to Justice Commission, and State Bar staff to brainstorm ways to address recruitment and retention in the profession through efforts to support law school loan repayment assistance programs and loan forgiveness. State Bar staff is conducting additional research on options, and these same stakeholders will reconvene in March.

K. Discussion on Additional Diversity and Inclusion Initiatives

Andrea Fitanides and Elizabeth Hom facilitated a discussion on a proposed initiative to support the Diversity Report Card's "Call to Action" to support retention and advancement in the profession. Elizabeth noted that the State Bar will publish the Report Card annually, but it wants to go one step further to actively engage the legal community. She outlined the idea of a "Diversity Certification" where employers perhaps commit to engage in seven or eight of the Calls to Action and be listed on the State Bar website. Employers would commit now to aspirational goals, and then over the next three to five years would be required to report out on their progress. There can be different menus of items for law firms, nonprofits and government agencies.

Andrea noted that the Pro Bono Institute had a similar model, where signatories pledged a specific percentage of billable hours for pro bono; this initiative was successful with big law firms. Similarly, "Leadership Banks" offer preferred terms on IOLTA accounts and are listed on the State Bar website.

COAF members liked the credibility of State Bar certification, the multiple steps to create a long-term plan and goals, and the public accountability and pressure to compete. COAF members agreed that implementation would be complex; this level of assessment is very time-consuming and would require that actions taken by employers be meaningful and sustained. Inclusion, retention and promotion are critically important factors, some of which can only be determined by getting feedback directly from employees not selected by the employer. The State Bar would also need to look at comparisons over time to measure outcomes.

COAF members offered additional ideas for addressing Diversity & Inclusion issues, including: producing another outreach video; a salary evaluation based on gender and race; an aspirational rule similar to ABA's for 20 hours per year dedicated to elimination of bias; a survey of the impact of COVID-19 on bar passage; and tracking of those who did not apply for a Provisional Lawyer License because they could not get a supervising attorney.

VII. LIAISON REPORTS

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

There was no report.

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

Pat Lee provided an update on the Pathways to LAW Summit. It will be held February 17-19, 2021. The three-day event provides an opportunity for law practitioners and educators to come together and exchange strategies, make connections, and participate in panels and other activities that help promote diversity in the legal profession. The conference will include mindfulness, leaders from government and community advocacy, and an awards ceremony.

CalLAW conducted a survey of pipeline advocates and scholars. They will convene in February-March to discuss what they are doing well and where they need assistance.

C. Judicial Council Report on Diversity and Inclusion Initiatives (This item was taken out of order.)

Judge Erica Yew provided an update on the Judicial Council's efforts to increase judicial mentorship. The California Asian-Pacific American Judges Association (CAPAJA) has begun their mentoring program. The Judicial Council will continue with their remote presentations on diversity in February and in April, with over 120 registered for the February program. The Judicial Leadership Summit will be held later this year.

VIII. ADJOURN

There being no other business, the meeting was adjourned at 3:07 p.m.