

COUNCIL ON ACCESS AND FAIRNESS MEETING (COAF)

Meeting Summary and Action Items

Friday, February 17, 2022, 10:00 a.m. – 4:00 p.m.

State Bar of California (Conference Call via Zoom)

Roll Call

Members Present

Vice Chair Judge Kristin Rosi
Heather Anderson
Novella Coleman
Sarah Good
Michael Rhoads
Angelica Salceda
Stephanie Chu Santoro
Sal Torres

Liaisons

Pat Lee (California LAW)
Judge Judith Dulcich (Judicial
Council)

Public Members

None

Staff

Leah Wilson
George Cardona
Christal Bundang
Elizabeth Hom
Heidi Slater

Members Absent

Chair Ryan Harrison
Chalak Richards

OPEN SESSION

Vice Chair Judge Kristin Rosi called the meeting to order at 10:06 a.m.

I. ROLL CALL

Roll call was taken, and quorum was established.

II. CALL FOR PUBLIC COMMENT

Vice Chair Judge Rosi invited members of the public to comment on any items on the agenda. No public comment was made.

III. CHAIR'S REPORT

Vice Chair Judge Rosi welcomed COAF Committee members.

Vice Chair Judge Rosi reported that staff are preparing for the return of in-person meetings and that the board will discuss a proposal at the March meeting regarding the future of sub-entity meetings. The proposal includes two in-person meetings a year with remaining meetings held via Zoom. The ability to continue public meetings via Zoom is predicated on an extension of the current provision that eliminates the requirement to give public notice of an attendee's location when not attending a meeting in person. The current provision was extended through March and there are indications that the provision will be made permanent. In addition, because the State Bar plans to sell the building in San Francisco, it is anticipated that the in-person meetings would take place in the Los Angeles office. Vice Chair Judge Rosi asked for feedback on this proposal. After a discussion, COAF members expressed support for the proposal.

IV. CONSENT

A. Approval of Meeting Summary and Action Items from December 3, 2021 Meeting

COAF approved December 3, 2021 meeting summary and action items by unanimous roll call vote (Torres moved, Anderson seconded).

V. STATE BAR REPORTS

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

Program Manager Elizabeth Hom reported OA&I is recruiting for several positions including Senior Program Analyst, Program Analyst and Program Coordinator. Hom introduced new OA&I Senior Financial Analyst, Heidi Slater.

B. Update on Initiatives to Improve the Attorney Discipline System

Chief Trial Counsel George Cardona provided an update on the Ad Hoc Commission on the Discipline System. The Commission met approximately two weeks ago, and reports were presented from the various working groups.

Cardona reported that the Effectiveness Subcommittee Early Neutral Evaluation Conference Working Group has been having discussions related to early neutral evaluation conferences in disciplinary proceedings and modifications to the standards regarding progressive discipline, including whether to grant the court more discretion in determining when progressive discipline may be appropriate. Recommendations will be finalized and presented to the Commission soon. The other working groups are still working on their recommendations.

Executive Director Leah Wilson reported that there will be some options presented to the Ad Hoc Commission for funding a pilot program for defense counsel.

A question was raised regarding statistics about Rule 8.4.1. Cardona reported that there are approximately 29 open investigations for violating Rule 8.4.1. Hom reported that the State Bar has developed an educational video on Rule 8.4.1, which will be shared via social media, and that a spotlight on Rule 8.4.1 will be included in the next all licensee email. Chair Harrison provided feedback on the script for the educational video.

COAF member and member of the Ad Hoc Commission on the Discipline System – Fairness Subcommittee Expungement Working Group Sarah Good reported the working group is reviewing the issue of expungements for lawyers who have been disciplined. The subcommittee has divergent views on this issue and will be presenting two proposals to the Ad Hoc Commission for their final determination.

VI. DISCUSSION AND ACTION ITEMS

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

Lead Program Analyst Christal Bundang provided an update on the Law School Retention Study on behalf of the working group, which includes COAF members Novella Coleman, Chalak Richards, and Sal Torres. The goal of the Law School Retention Study was to gather and analyze current data regarding law school retention in the following three areas: 1) law school enrollment, 2) current recruitment and retention practices and 3) law school attrition. In addition to the survey the working group held four topic specific focus groups in the following areas: 1) academic support programs, 2) nonacademic support, 3) attrition and 4) career development, mentorship, and financial support. The working group met last week to provide feedback on possible calls to action based on findings from the study. Bundang reported that study findings and calls to action will be published in a resource shortly and will be presented at the next COAF meeting. There was additional discussion regarding next steps once the resource is finalized.

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

Working group members Heather Anderson and Sal Torres provided an update on the Differential Item Functioning (DIF) working group's recommended guiding principles.

Anderson reported that the DIF working group met on January 12, 2022. At this meeting the DIF working group reviewed and approved the final version of the "Guiding Principles in Examination Development to Minimize Potential Bias in Bar Exam Questions." Hom reported that the Committee of Bar Examiners approved the guiding principles at their January meeting and believes they will go to the Board of Trustees for discussion and approval in March. Vice Chair Judge Rosi thanked working group members Anderson, Richards, and Torres for their efforts on the working group. There was additional discussion about how and when to evaluate the impact of these guiding principles.

C. Update on Blue Ribbon Commission on the Future of the Bar Exam (Goal 4, Objective i)

Vice Chair Judge Rosi provided an update on the Blue Ribbon Commission on the Future of the Bar Exam. The Commission has formed two subcommittees, 1) Pathways to Licensure Through a Licensing Exam and 2) Pathways to Licensure Through a Non-Exam Alternative. Chair Harrison is a member of the Licensing Exam subcommittee and Vice Chair Judge Rosi is a member of the Non-Exam Alternative subcommittee.

Vice Chair Judge Rosi reported that the Pathways to Licensure Through a Non-Exam Alternative subcommittee is developing alternative paths to licensure that do not require a bar exam. The subcommittee has looked at other jurisdictions, including Oregon's program where law school graduates can participate in a formal supervisory pathway to become licensed. There is a similar process in Canada and some smaller states. Some challenges related to this model include lack of supervisors due to the high volume of applicants, and equity issues related to access to attorney supervisors. Vice Chair Judge Rosi reported that the subcommittee met and discussed how doctors are licensed, the residency requirement, and opportunities and challenges related to their licensure processes.

Wilson gave an update on the Pathways to Licensure Through a Licensing Exam subcommittee. The subcommittee voted to develop a California specific exam. Wilson reported that this is a tremendous opportunity to rethink how the State Bar addresses the guiding principles prepared by the DIF working group. It could potentially include an implicit bias or cultural competency component. Vice Chair Judge Rosi reported that the ABA recently passed a resolution to require implicit bias training for students in law school.

There was a robust discussion about the different ideas presented. There were concerns that offering multiple pathways to licensure may create the perception of a two-tiered system. There was also discussion around limiting the alternative pathway option to public interest or government placement and the challenges that this approach may face. In addition, different law school approaches that focus on providing hands-on experience prior to graduation were presented.

Vice Chair Judge Rosi reported that the two subcommittees will be coming back together to discuss the options that each subcommittee has developed. Vice Chair Judge Rosi thanked COAF members for their input and would take the feedback to the committees.

D. Update on Diversity Report Card (Goal 4, Objective k)

Items VII.D and VII.E were taken together.

E. Update on 2020 Impact Survey (Goal 4, Objective l)

Hom reminded the council that the Attorney Census data and 2020 Impact Survey findings are being analyzed together for the next iteration of the Diversity Report Card, which will be published this spring. The working group (COAF members Anderson, Good, Rhoads and Torres will be convened by staff to review initial findings and provide feedback. In coordination with the Report Card, the Leadership Seal Program will also launch this spring. Staff will reach out to working group members Chair Harrison, Anderson, and Rhoads for their input and feedback.

F. Update on Implicit Bias Online Training Module (Goal 4, Objective m)

Hom reported that the implicit bias training course was added for all attorneys as of February 8, 2022. It can be accessed through My State Bar profile. It will also be featured on the Attorney page on the State Bar website. In addition, there is a social media campaign to get word out about the training. Staff will run reports to analyze usage and passage rates post training. The training is broken into four different modules and participants will receive one hour of elimination of bias CLE credits. Hom thanked working group member Coleman and former COAF members, including former Chair Judge Esther Kim for their input and participation on this project. Hom also acknowledged the subject matter expert for the training, Catrice Monson of Right Sized Media, and InfoPro, the e-learning platform developer, for their work on this project.

G. Update on Addressing Retention in the Legal Profession through Law School Loan Repayment (Goal 4, Objective l)

Hom reported that a working group consisting of COAF members Anderson and Vice Chair Judge Rosi, members from the Legal Services Trust Fund Commission, and members from the Access to Justice Commission met four times in 2021 to study law student loan debt and develop recommendations to address recruitment and retention in the legal aid sector and diversity in the profession. The State Bar surveyed public interest attorneys to gather additional information about loan repayment and loan forgiveness. Staff will share a proposal for a statewide loan repayment assistance program (LRAP) program at the next working group meeting scheduled for March 8, 2022. The full proposal will be presented at the next COAF Meeting.

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

Hom reported that the working group hopes to begin work on the next video in the spring, and additional information will be provided at the next COAF meeting.

I. Discussion of Additional Diversity and Inclusion Initiatives

There were no additional initiatives discussed.

J. Discussion and Approval of 2022 COAF Work Plan

Hom reported that the Board of Trustees is currently engaging in the strategic planning process to develop the State Bar's strategic plan for the next five years. Typically, the board reviews and approves COAF's work plan each March. However, since the board has not finished the strategic planning process, it is anticipated that the board will review and approve sub-entity work plans in May. COAF can continue its existing work but cannot begin any brand new work until the board approves COAF's work plan.

Hom reviewed the draft COAF work plan, highlighting activities requiring further clarification.

Hom reported that to institutionalize the Strategies and Stories Program, expenses related to the program are included in the State Bar's annual budget so that the program can be provided on an ongoing basis. After discussion, the COAF members decided to remove "Develop communications strategy to outreach to law students and bar applicants to participate in intervention" from the work plan since the work has been completed.

After discussion, the council approved the 2022 COAF work plan, as discussed and edited at the February 17, 2022 COAF meeting, delegated authority to staff to align the approved work plan to the State Bar strategic plan when the Board's current strategic planning process is complete and to present the COAF work plan to the Board for approval. The motion was approved by unanimous roll call. (Vice Chair Judge Rosi moved, Anderson seconded).

VII. LIAISON REPORTS

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

There was no report.

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

California LAW liaison Pat Lee reminded everyone about the Pathway Summit, which starts on February 18, 2022. Lee also reported that California LAW is now expanding its focus into the California State University system in addition to high school law academies and community colleges. Lee announced that California LAW has a new Executive Director, Pamela Enslin, whose biography is included in the meeting materials. Lee also reported that the state budget included \$5 million for California LAW and they plan develop a database to track outcomes and impacts of their pipeline programs. Lee thanked the State Bar for their continued partnership and support.

C. Discussion on Council Report on Diversity and Inclusion Initiatives

Judicial Council liaison Judge Dulcich acknowledged the great work of the COAF. Dulcich reported that the Judicial Council continued to work on judicial diversity programs. As a follow up to the 2021 Stronger Together Judicial Diversity Summit, recommendations are being finalized with implementation planned over the next five years. The Pathways to Judicial Diversity website is being updated with demographics relevant to judicial diversity. The Judicial Council continues to work with the Commission on Judicial Nominees Evaluation to provide training on implicit bias and its effects on decision making. A training was held in January of 2022 and the next training is scheduled for August 2022.

VIII. ADJOURN

There being no other business, the meeting was adjourned at 12:34 p.m.

DRAFT