

## **COUNCIL ON ACCESS AND FAIRNESS (COAF) MEETING**

### **Meeting Summary and Action Items**

Thursday, June 16, 2022, 10:00 a.m.–4:00 p.m.

State Bar of California (Conference Call via Zoom)

---

#### **Roll Call**

##### **Members Present**

Chair Ryan Harrison  
Vice Chair Judge Kristin Rosi  
Novella Coleman  
Sarah Good  
Michael Rhoads  
Chalak Richards  
Angelica Salceda  
Stephanie Chu Santoro

##### **Liaisons**

Judge Judith Dulcich (Judicial  
Council)  
Pamela Enslen (California  
Leadership Access  
Workforce)  
Patricia Lee (California  
Leadership Access  
Workforce)  
Lauren Oakley (California  
Lawyers Association)

##### **Public Members**

Areta Guthrey

##### **Staff**

Carolina Almarante  
Christal Bundang  
Erica Carroll  
Lisa Chavez  
Trevor DeSane  
Elizabeth Hom  
Danielle MacRae  
Christopher McConkey  
Amy Nunez  
Kimberly Warmsley  
Leah Wilson

---

##### **Members Absent**

Heather Anderson  
Sal Torres

---

#### **OPEN SESSION**

Chair Ryan Harrison called the meeting to order at 10:05 a.m.

##### **I. ROLL CALL**

Roll call was taken and quorum was established.

##### **II. CALL FOR PUBLIC COMMENT**

Chair Harrison invited members of the public to comment on any items on the agenda. The following comment was made:

Public member Areta Guthrey asked to turn on captioning for the meeting. Staff was unable to enable captioning through the Zoom videoconferencing platform. Chair Harrison noted that the meeting minutes are available to the public after the meeting concludes. Program Director Elizabeth Hom noted that a transcript will also be produced after the meeting. Ms. Guthrey objected to the meeting going forward without captioning.

### **III. CHAIR'S REPORT**

Chair Harrison informed the Council that the Board of Trustees approved the 2022-2027 Strategic Plan and will approve the COAF work plan at its July meeting. In the interim, COAF can get started on projects that have been on hold. He also noted that some items on the agenda will be taken out of order to accommodate presenters' schedules. Chair Harrison also announced that he had a son two weeks ago and was congratulated by the other COAF members.

### **IV. CONSENT**

A. Approval of Meeting Summary and Action Items from February 17, 2022 Meeting  
The council approved the February 17, 2022 meeting summary and action items by unanimous roll call vote (Vice Chair Rosi moved, Member Salceda seconded).

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

#### **A. Update on Office of Access & Inclusion and relevant State Bar activities**

Program Director Hom informed the council that in 2022 the State Bar will distribute about \$140 million to about 100 legal aid organizations across the state. OA&I anticipates increased funding in the state budget and currently is recruiting for vacant positions to support grant administration and diversity, equity and inclusion work. Program Director Hom also noted that the report to the legislature on diversity, equity and inclusion is due in March 2023. Chair Harrison and the incoming chair and vice chair will review and provide feedback on the report. Updates on the report will be presented at the August and December meetings.

#### **B. Update on Efforts to Reform the Attorney Discipline System**

Program Director Lisa Chavez reminded the council that the Ad Hoc Commission on the Discipline System was created by the Board of Trustees to study the discipline reforms implemented by the Office of Chief Trial Counsel and to determine whether the actual impacts were consistent with intended impacts.

Director Chavez reported that the Ad Hoc Commission met on June 1, 2022 and adopted its first set of recommendations concerning criminal convictions, disciplinary costs and monetary sanctions, attorney representation, and expungement of disciplinary records from the State Bar website in some circumstances. She noted that the commission recommended the creation of an appointed counsel program for income eligible attorneys in disciplinary proceedings. The proposed pilot program would be funded with \$250,000 and serve an estimated 83 low-income attorneys. The Ad Hoc Commission will meet again in July to review two more sets of recommendations, and a final report is due to the Board of Trustees in September.

There was discussion and council members asked for clarification on how income eligibility would be verified for attorneys receiving appointed counsel. Director Chavez noted that only attorneys that qualify for reduced licensing fees based on specific income guidelines would qualify. Director Chavez also clarified that the initial pilot project would fund approximately 83 cases annually; member Good who is also serves on the Ad Hoc Commission noted that appointed counsel would only provide representation up to a certain stage in the proceedings.

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

Chair Harrison noted that several items were taken out of order to accommodate presenter schedules.

### **VI. J. Discussion on Imposter Syndrome and Impact on the Legal Profession (Goal 3)**

Dean Rodney Fong, Associate Dean for Academic Achievement, Program Assessment & Bar Preparation and Clinical Professor of Law, presented on imposter syndrome and the impact on the legal profession. Dean Fong noted that it is critical that imposter syndrome be addressed by the State Bar. He pointed out that up to 82% of people have feelings of imposter syndrome and that it affects people in underrepresented groups more than people in mainstream groups. He noted that 75% of women CEOs of Fortune 500 companies feel imposter syndrome. Dean Fong shared the impacts of imposter syndrome on law students and attorneys, which can have both positive and negative effects. For example, imposter syndrome may result in a person working harder and overpreparing, which gives an appearance of success; however, the same person may also suffer negative effects like mental health impacts, constant feelings of incompetence, and feelings of burnout.

Program Director Hom added that the 2022-2027 Strategic Plan includes protecting the public by regulating the profession as one of its goals. In implementing this goal, the State Bar will create a licensee resource page on the State Bar website that addresses navigating imposter syndrome. COAF can work with the Lawyer Assistance Program to provide feedback and Program Director Hom will ask for volunteers for a working group to work on developing this resource.

### **VI. B. Update on Law School Retention Study (Goal 2)**

Lead Program Analyst Christal Bundang provided an update on the Law School Retention Study. The Law School Retention working group consists of members Coleman, Richards, and Torres. The goal of the study is to analyze data regarding law school enrollment, retention, and attrition, including unaccredited law schools. Bundang explained that the working group is integrating recently amended State Bar Rule 4.160(C) into the law school retention resource, which requires Provisionally Accredited and Accredited Law Schools to have mission-appropriate DEI policies to support student success. The working group is also developing calls

to action categorized as global, academic support, additional student support, and faculty and staff. The resource will now include data from 2021 academic year. Previously, the resource only referenced 2020 data. The 2021 data has enhanced reporting, such as additional gender categories and attrition by race/ethnicity and gender. Depending on the 2021 data analysis, the working group may facilitate additional focus groups.

#### **VI.G. Update on Implicit Bias Online Training Module (Goal 3)**

Lead Program Analyst Erica Carroll provided an update on the “Disrupting Implicit Bias” online training module, which was developed after State Bar Rule 2.72 was revised to increase the Minimum Continuing Legal Education (MCLE) requirement for licensees to complete at least two hours of MCLE on recognition and elimination of bias, and requiring that at least one of those hours be on the topic of implicit bias. The goal in creating the module was to help attorneys comply with the new requirement and to create high quality content as a model for other MCLE providers. The course launched in February 2022 and nearly 1,300 attorneys have completed the course to date. Participants complete a post-training survey and provided largely positive feedback. Staff will continue to review the surveys for potential areas of improvement.

#### **VI. I. Update on Early Pipeline to the Profession Outreach Materials Development (Goal 2)**

Program Director Hom provided an update on the development of early pipeline outreach materials development. The next video featuring in-house counsel will be with Disney, and the goal is to complete the video by the end of summer.

#### **VI.F. Update on Leadership Seal Program (Goal 2)**

Senior Program Analyst Danielle MacRae provided an update on the Leadership Seal Program. The program was created to encourage legal employers to publicly commit to and implement DEI best practices as identified in the Diversity Report Card. The program will be available to all legal employers with California attorneys and requires participating employers to commit to implementing seven of ten identified action items. Analyst MacRae shared stakeholder feedback, and thanked Chair Harrison and members Anderson and Rhoads for their input and feedback as a part of the working group.

### **VII. LIAISON REPORTS**

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

Liaison Pat Lee introduced Pamela Enslin, the new Executive Director at California LAW.

Liaison Lee reported that new officers were appointed including a new chair and secretary; the vice chair and treasurer are continuing in their roles. She described Cal LAW’s Law Day 2022

program, the upcoming Constitution Day program in September, and the upcoming 2023 Pathways Summit that will be held in February at USC Law School. Liaison Lee thanked the State Bar for its ongoing annual sponsorship for the Summit. Liaison Lee noted that Cal LAW is planning to resume its high school law academy summit in June 2023. Finally, she described the DEI training module that Cal LAW will be creating.

#### **VII.C. Judicial Council of California Report on Diversity and Inclusion Initiatives**

Liaison Judge Judith Dulcich provided updates on the recommendations from the 2021 Stronger Together Judicial Diversity Summit. Those recommendations are being revised with assistance from the Advisory Committee and will be implemented over the next five years. The Judicial Council is also updating its Pathways to Diversity website with new information on judicial demographics. The Judicial Council is also working with the Commission on Judicial Nominees Evaluation to provide training on judicial diversity bias and the effects of decision making.

### **VI. DISCUSSION AND ACTION ITEMS (CONTINUED)**

#### **VI. A. 2022-2027 State Bar Strategic Plan and Discussion of Alignment with COAF Work Plan**

Executive Director Leah Wilson presented on the 2022-2027 Strategic Plan. She explained that as a foundational principle, the State Bar is committed to advancing diversity, equity, and inclusion in its own operations as well as in the legal profession. DEI is embedded in all goals of the plan. Under each goal in the Strategic Plan, Director Wilson highlighted the DEI aspects in the implementation steps.

Program Director Hom noted that COAF included judicial diversity in its work plan for 2022 and suggested that COAF may want to remove judicial diversity work as it is no longer in the strategic plan.

Chair Harrison asked for a motion to remove the judicial diversity component from the COAF work plan. Member Richards moved. Member Santoro seconded the motion. The vote was as follows:

Yes (5): Harrison, Coleman, Richards, Salceda, Santoro

No (3): Rosi, Good, Rhoads

Absent (2): Anderson, Torres

The motion carried.

#### **VI.H. Update on Addressing Retention in the Legal Profession through Law School Loan Repayment (Goal 2)**

Lead Program Analyst Erica Carroll provided an update on the work of the Loan Repayment Assistance Program (LRAP) Working Group, which consists of members of COAF, the Legal

Services Trust Fund Commission, and California Access to Justice Commission. Erica thanked Vice Chair Rosi and Member Anderson for their time and efforts with the working group.

Analyst Carroll explained that there are approximately 1,700 LRAP eligible attorneys at State Bar funded legal aid organizations and about 300 more eligible attorneys at Department of Social Services-funded organizations. Per a recent State Bar Survey, the average yearly amount of loan repayment for an attorney in the non-profit sector is \$7,375. Participants in the LRAP program would be eligible for forgivable loans of up to \$10,000 each. Based on these estimates, \$10 million per year in loan repayment assistance should be sufficient to provide substantial assistance to all eligible attorneys. There currently is a proposal for funding of \$55 million from the legislature and \$5 million from the State Bar (for administration) over five years with the program administered by the California Student Aid Commission.

Led by Vice Chair Rosi, COAF members thanked the LRAP working group for everything they have done and noted how incredibly significant the creation of the program is for the legal aid community, public interest-minded law students, and the State Bar.

#### **VI.C. Update on Efforts to Institutionalize Diversity and Inclusion Goals in Bar Exam Question Development and Grading (Goal 2)**

Director for the Office of Admissions Amy Nunez provided an update on the differential item functioning (DIF) study of bar exam questions and performance exams. While the study findings did not show any major areas of concern, the Board created the DIF Working Group. The DIF Working Group to further study the findings. The DIF Working Group included members of the Committee of Bar Examiners and COAF. Members Anderson, Richards, and Torres served on the working group. After reviewing the findings, the working group developed 14 guiding principles to be used in bar exam question development to minimize bias. These guidelines were approved by the Board of Trustees in March. After discussion, COAF requested that after implementation, the Office of Admissions study the impact on test takers of using the guiding principles.

#### **VI.D Update on Blue Ribbon Commission on the Future of the Bar Exam (Goal 2)**

Director Nunez provided an update on the Blue Ribbon Commission on the Future of the Bar Exam (BRC). The BRC is charged with developing recommendations potential changes to the bar exam, and has two committees studying the exam pathway and non-exam alternatives, respectively.

The exam pathway committee considered how to ensure that its recommendations protect the public and ensure minimum competence in professional ethics and responsibilities. The group also looked at fairness and equity considerations related to cost, exam delivery modality and format (e.g., open book exam, remote exam, etc.).

The non-exam pathway committee considered how to demonstrate minimum competence in knowledge, skills, and ability with a non-exam pathway, and how are fairness and equity considerations are implicated as measured by affordability and meaningful access to quality supervisors and/or other experiential learning. The committee considered extensively how to address the perceptions that a non-exam pathway to licensure is a second-tier pathway and participating lawyers as less qualified. The BRC plans to have recommendations and a report completed by the end of the year.

COAF members expressed their concern about scalability, reciprocity with other states, and perceptions of different tiers of licensed attorneys.

#### **VI.E. Update on Diversity Report Card and 2020 Impact Survey (Goal 2)**

Senior Program Analyst Carolina Almarante presented on the 2022 findings for the Diversity Report Card. She explained that the report is derived from the attorney census, a voluntary survey capturing demographic data and information related to advancement and workplace climate. The Report Card will include trends in demographics, employment sector, executive and partner status, and workplace satisfaction.

Program Supervisor Chris McConkey reminded the council that the 2020 Impact Survey findings, which collected information from attorneys on the effects of the pandemic and the increased national attention to racial justice issues, will be incorporated into the Report Card as “spotlights” to enhance findings from the attorney census. Additionally, sector specific calls to action for employers and attorneys will be included at the end of the Diversity Report Card.

Program Director Hom added that the Report Card working group (members Torres, Good, Rhoads, and Anderson) will have the opportunity to provide feedback on the calls to action before the Report Card is published.

#### **VI.K. Discussion and Recommendation Regarding Adoption of American Bar Association Resolution 102 on Diversity, Equity, and Inclusion**

Senior Program Analyst Trevor DeSane presented on American Bar Association (ABA) Resolution 102, which calls on attorneys to devote at least 20 hours each year to efforts that advance and promote diversity, equity and inclusion in the legal profession. Analyst DeSane

explained the ways that the resolution is consistent with the State Bar mission and the 2022-2027 Strategic Plan. He discussed the example qualifying activities the ABA provides in its accompanying report to the resolution and how some of those activities correlate directly to goals expressed in the strategic plan. Program Director Hom asked for volunteers for a working group. Vice Chair Rosi and Members Richards and Rhoads volunteered for the working group to further discuss the issue and make a recommendation at the next COAF meeting in August.

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

Chair Harrison asked if there are additional initiatives for discussion. No other initiatives were brought forward.

### **VII. LIAISON REPORTS (Continued)**

#### **VII.B. California Lawyers Association (CLA) Report on Diversity and Inclusion Initiatives**

Liaison Lauren Oakley reported that California Lawyers Association (CLA) adopted a Strategic Plan consisting of six pillars including one that promotes DEI in the California legal community through training advocacy affinity bar partnerships and education to positively impact the future of the profession. CLA is hiring a new staff member with DEI experience to help execute the strategic plan. The Judicial Diversity Summit Report is in process and recommendations will be published by the end of the year. CLA is also working on a “Diverse Voices of the Legal Profession” video series meant to inspire diverse students to see themselves as members of the legal profession. CLA is actively recruiting participants for the video series.

CLA’s Diversity Advisory Outreach Committee has an initiative to support Black men in applying for, being admitted to, and successfully completing law school. CLA is also pursuing two in-person programs to be hosted at a sports stadium or arena. Legal counsel and a player or two from those teams will attend the programs, along with legal professionals from industries that appeal to a younger audience, like cryptocurrency, music and entertainment, and sports. The programs will be open to any high school student to participate. CLA is also working with UCLA School of Law and Council on Legal Education Opportunity (CLEO) to organize a multi-day or multi-week pre-law academy that would be hosted at the UCLA campus.

#### **I. ADJOURN**

There being no other business, the meeting was adjourned at 3:31 p.m.