

AGENDA ITEM

JULY 163

Judicial Council Commission
for Impartial Courts Final Report:
Authorization for COAF Comments

Date: June 8, 2009

TO: Members of the Board of Governors
Members of the Board Committee on Stakeholder Relations

FROM Luis Rodriguez, Chair, Council on Access & Fairness (COAF)
Patricia Lee, Director, Office of Legal Services,
Access & Fairness Programs

RE: Judicial Council Commission for Impartial Courts Final Report--
Authorization for Comments from Council on Access & Fairness

Executive Summary:

On August 2009 the Judicial Council Commission for Impartial Courts issued its final report for public comment. The report includes recommendations for safeguarding judicial quality, impartiality and accountability. The report covers topics ranging from Judicial candidate campaign conduct and campaign finances, to public information and education and judicial selection and retention. The Council on Access & Fairness (COAF) has reviewed the report and has identified sections of the report that fall within the charge of the Council. The Council offers the following recommendations for consideration by the Board Committee on Stakeholder Relations and Board of Governors and requests authorization to submit the comments in its own name to the Judicial Council in response to the request for public comment.

Background:

The Commission for Impartial Courts (CIC) was formed by Chief Justice Ronald George in September 2007. The charge of the CIC was to study and recommend ways to ensure judicial impartiality and accountability for the benefit of all Californians. The CIC membership included appellate court justices, trial court judges, court executives, members of the legislature, bar leaders, media, law schools, business community, educational institutions and civic groups.

On August 2009 the CIC issued its final report for public comment. The report covers topics ranging from judicial candidate campaign conduct and campaign finances, to public information and education, judicial selection and retention and diversity of the judiciary. (The full report appears at **Attachment B**). The State Bar Council on Access & Fairness (COAF) has reviewed and has identified sections of the report that address issues within the charge of the Council including the Recommendations on Public Information and Education and on Diversity in the Judiciary. The COAF offers the following recommendations for consideration by the Board Committee on Stakeholder Relations and by the Board of Governors and requests that the COAF be authorized to submit the comments in its own name to the Judicial Council in response to its request for public comment. (The full COAF recommendations also appear in **Attachment A**.) Board approval is required in this instance, as the COAF charge does not provide for the COAF to comment in its own name without Board approval.

RECOMMENDATIONS:

The Council on Access & Fairness has identified CIC Recommendations on Public Information and Education (Recommendations 46-48, 50 and 63-71) and Recommendations on Diversity in the Judiciary (Recommendations 97-100) for further proposed comment as follows:

PUBLIC INFORMATION AND EDUCATION:

CIC Recommendations 46-48 and 50:

46. A leadership advisory group should be appointed to oversee, identify, and coordinate public outreach programs and opportunities; to establish benchmarks of good practice; and to promote the assembly of local teams to assist courts with local outreach programs.

47. The AOC should collect, summarize, and evaluate public outreach resources currently available for judges and court administrators and should also collect, summarize, and evaluate educational materials for K-12 teachers and for judges and court administrators making classroom visits. These efforts should include the following:

- *Creating a repository of all public outreach resources;*
- *Assigning AOC staff to coordinate outreach, education, and voter education efforts at the state and local level;*
- *Cultivating leaders who would make use of the repository in local courts;*
- *Creating a standing advisory group on public outreach that would help the judicial branch maintain a focus on outreach efforts;*
- *Maintaining a menu of public outreach options for local courts;*
- *Establishing benchmarks of good practice and promoting the assembly of local teams to assist courts with local outreach programs; and*

- *Encouraging bench-bar coalitions to reach out to key stakeholders and interest groups, including political parties, in order to increase awareness and understanding of the judicial branch.*

48. The AOC should maintain a menu of public outreach options for local courts that will:

- *Reflect the diversity of the state’s demographic and geographic differences and include descriptions of the programs, the targeted audiences, and where they can be used; and*
- *Explore ethnic media outlets to reach more audiences and investigate multimedia outreach opportunities, such as the California Courts Web site, local court Web sites, radio, podcasts, public service announcements (PSAs), public video hosting sites, instant messaging, and the California Channel.*

50. The standing advisory group mentioned in recommendation 46 should partner with local courts, bar associations, the CJA, the NCSC, the State Bar, and others to offer outreach and public information programs and media guidelines to courts or regional areas.

COAF COMMENTS on CIC Recommendations 46-48 and Recommendation 50:

The Council on Access and Fairness supports the public outreach goals in the report to better inform the public about the rule of law and the importance of an independent judiciary, but notes that *with the stated goals for public outreach to all segments and communities in the state, mention should be made regarding the need to create materials and programming in languages in addition to English.* This appears to be a significant oversight in these identified recommendations. There should be translations of basic educational materials and efforts to conduct appropriate educational programs in other languages by judges, court personnel, bar staff, etc.

Specific COAF comments and recommended language on CIC Recommendations 46-48 and Recommendation 50 appear in Attachment A.

CIC Recommendations 63-71:

63. Courts should be identified to pilot programs dealing with community outreach and education.

64. Strategies for meaningful changes to civics education in California should be supported.

65. A strategic plan for judicial branch support for civics education should be developed. (See Appendix L, Proposed Strategic Plan to Improve Civics Education.)

66. Political support should be sought from leaders in the Legislature, State Bar, law enforcement community, and other interested entities to improve civics education.

67. Teacher training programs, curriculum development, and education programs on civics should all be expanded to include the courts.

68. Presiding judges should be encouraged to grant CLE credits to judicial officers and court executive officers conducting K–12 civics and law-related education.

69. The State Bar Board of Governors should be asked to grant Minimum Continuing Legal Education (MCLE) credits to attorneys conducting K–12 civics and law-related education programs.

70. The AOC should be directed to help pilot extensive civics-related outreach in three jurisdictions.

71. Recognition programs that bring attention to teachers, judges, and court administrators who advance civics education should be promoted.

COAF COMMENTS on CIC Recommendations 63-71:

The Council generally supports the concept of improved civics education in grades K-12 as proposed in these CIC Recommendations and finds a number of the proposals consistent with many of the Council's early pipeline initiatives designed to increase full participation of our diverse population in the legal profession. Courts partnering with the bar to bring civics education to youth, furthers the goals of an informed electorate, respect for the rule of law, and public trust and confidence in our courts. Civics education also educates students about the legal system and career opportunities in the law, with the goal of increasing diversity in our profession and our courts. To the extent such proposals might affect how MCLE credit is awarded, the Council does not take a position and defers to the appropriate State Bar entities on these issues.

DIVERSITY OF THE JUDICIARY:

CIC Recommendations 97 to 100:

97. The courts should be directed to consider, when making appointments of subordinate judicial officers, both the diverse aspects of the appointees and the appointees' exposure to and experience with diverse populations and their related issues.

98. One of the factors the JNE should consider is the candidate's exposure to and experience with diverse populations and issues related to those populations.

99. The Governor should consider an appointee's exposure to and experience with diverse populations and issues related to those populations.

100. The judicial branch's public outreach and publicity programs should include one that encourages all members of the bar to consider applying for judicial office.

COAF COMMENTS on CIC Recommendations 97-100:

The COAF agrees with the Commission for Impartial Courts that increasing judicial diversity is a critical component of the judicial selection process in California and supports these recommendations in concept. In particular, the COAF supports the recommendation for expanded public outreach and publicity programs to encourage all members of the bar to consider applying for judicial office. Also, the COAF urges the Judicial Council to work with the appropriate entities to ensure that evaluation of judicial applicants, decisions re: judicial appointments, as well as appointments of subordinate judicial officers incorporate the factors included in these recommendations, namely the candidate's exposure to and experience with diverse populations and issues related to these populations. The application of these criteria will help to ensure that appointments will take into consideration cultural competency, minimize the possibility of stereotyping of litigants by judicial officers, and increase diversity of those judicial officers with the greatest contact with the members of the public, thereby promoting public trust and confidence in the courts and legal system.

FISCAL AND PERSONNEL IMPACT:

Comments and follow-up to be addressed by existing staff.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT: None

RULE AMENDMENTS: None

ALIGNMENT WITH STRATEGIC PLAN:

The comments are in alignment with the State Bar Vision for "a justice system reflective of the diversity of the State it serves" and support the Goals and Strategies for Goal 2 re: the Administration of Justice by "undertaking activities to enhance the diversity of the legal profession to eliminate bias in the practice of law, taking care that mandatory dues are expended appropriately."

RECOMMENDATIONS:

Proposed Board Committee Resolution:

Should the Board Committee on Stakeholder Relations support the request from the Council on Access & Fairness, the Committee adopts the following resolution:

RESOLVED, that the Board Committee on Stakeholder Relations recommends that the Board of Governors authorize the Council on Access and Fairness to submit in its own name the comments reflected in Attachment A to the Judicial Council.

Proposed Board Resolution

Should the Board of Governors concur with the recommendation of the Board Committee on Stakeholder Relations, the following resolution would be in order:

RESOLVED, that upon the recommendation of the Board Committee on Stakeholder Relations, the Board of Governors authorizes the Council on Access and Fairness to submit in its own name the comments reflected in Attachment A to the Judicial Council.