

AGENDA ITEM

JULY 2010

Council on Access & Fairness
Status Report

TO: Members, Board Committee on Legal Services, Pro Bono and Equal Access

FROM: Rodney Fong, Chair, Council on Access & Fairness
Patricia Lee, Special Assistant for Diversity and Bar Relations

DATE: June 24, 2010

RE: Council on Access & Fairness Status Report

BACKGROUND:

The mission of the Council on Access and Fairness (COAF) is to advise the State Bar Board of Governors on appropriate strategies, consistent with State Bar policies and procedures that enhance opportunities and advancement in the legal profession for diverse populations, particularly those who have been historically underrepresented. "Opportunities" encompasses leadership development and appointments to State Bar entities, as well as initiatives to educate students about the law and career opportunities in the law, referred to as education "pipeline" initiatives. "Advancement" encompasses recruitment, employment, retention and advancement in the legal profession. The Council will also screen candidates for the Annual Diversity Awards.

2010 STATUS REPORT:

The COAF engages in annual strategic planning and arrives at an annual workplan which is implemented through its designated committees and working groups. The committees track the main segments of the diversity pipeline including: Early Education, College and Law School, Legal Profession, and Judiciary. Current working groups focus on ABA Accreditation Standards and Law School Reforms, Law School Rankings, Statement of Diversity Principles, EOB Curriculum and Pre Law Student Club Tool Kits. The attached document highlights the 2010 initiatives currently being implemented by the Council.



ATTACHMENT A
The State Bar of California
Council on Access & Fairness Highlights

Early Education Pipeline:

Mock Trial Programs: The Council on Access & Fairness (COAF) continues to promote the involvement of the legal profession in mock trial programs as one of the best vehicles for developing critical thinking skills in students, as well as for educating students about the legal system and promoting the law as a profession. We initially focused on the Constitutional Rights Foundation mock trial program offered through the school system and have identified best practices for expanding the program among diverse and disadvantaged schools.

Mock Trial Fact Patterns: We are reviewing Mock Trial fact patterns provided through the Constitutional Rights Foundation (CRF) Mock Trial Program to ensure that access and fairness elements are included. Suggestions for additional issues and fact patterns will be provided to CRF.

Marshall Brennan Constitutional Literacy Program: With a grant from the California Bar Foundation we have promoted the Marshall Brennan Program among California law schools. This program is sponsored by law schools, with law students being trained in constitutional law and juvenile justice curriculum. The students are assigned to high schools in disadvantaged communities where they teach the curriculum and coach the students in mock trial programs. This program provides a more level playing field for student participants from disadvantaged communities. Teaching and mock trial coaching are provided by trained law students, with the same level of experience and familiarity with the curriculum. Whereas the success of the general mock trial programs and support provided to the students rely heavily on the local resources of the various communities and school districts.

“Want to be a LAWYER?”: We continue to distribute the student pipeline brochure describing what lawyers do, who they are, and the different paths to becoming a lawyer. Brochures are distributed to various schools and pipeline programs as a resource for students who are interested in pursuing a legal career.

College/ Law School Projects:

Pre Law Advisors: A meeting of Northern California college pre-law advisors was held at Golden Gate University Law School to address the need for resources and support by advisors to provide the full range of information needed by students to prepare for admission to law school. We are planning a Southern California meeting in the Fall. The feedback from the Northern California meeting has been summarized for further discussion during the convening of Pre-law advisors in Southern California. A preliminary report will be submitted to internal State Bar entities and other stakeholders for discussion and input. Recommendations will be presented to the Board of Governors. A final report ultimately will be distributed to advisors and students planning to attend law school, as well as to other stakeholders.

Pre Law Clubs Tool Kit: We are compiling existing resources and sites that provide step by step information on preparation for and admission to law school. The information will be accessible online by student pre law clubs, students in general, pre law advisors, parents and other representatives/entities needing this information. We will also be producing short vignettes to post on our website, featuring diverse attorneys who have become lawyers through different pathways, who practice in diverse practice settings, and who can serve as role models.

Law School Focus Groups: Focus groups have been convened with Law School Admissions Officers and Academic Support representatives in Northern and Southern California to examine law school admission practices and the current status of academic support services in California. A preliminary report will be submitted for discussion with the Committee of Bar Examiners, Law School Assembly and other stakeholders. A final draft will be developed for presentation to the Board of Governors.

Preparing for the Admissions Process: Representatives from Bar Exam Prep Courses and Law School Academic Support Programs were convened in San Francisco to discuss information and resources that could be compiled to provide practical tips to prepare for the admissions process. A summary is being prepared and will be shared with internal stakeholders for further discussion. The COAF co-sponsored a bar exam prep program with the Bar Association of San Francisco (BASF) and For People of Color, Inc. providing practical information for bar exam prep. The program was videotaped and has been posted on the For People of Color website (www.forpeopleofcolor.org).

Law School Rankings: We continue to confer with deans from California ABA accredited law schools and the Committee of Bar Examiners for input on our proposal to urge US News & World Report to develop and incorporate a meaningful diversity component as part of its overall law school rankings. A diversity index currently exists, but is separate from the overall aggregate rankings. We are also reviewing possible changes to the Reputation/Peer Review Surveys distributed to law school representatives, lawyers and judges to provide more objective feedback to USNWR on the quality of the law schools and law graduates. We have discussed the USNWR rankings methodology with the USNWR Editor and will maintain an ongoing dialogue.

ABA Standards for Law School Accreditation: We are in the process of drafting and submitting ongoing commentary as the ABA Standards Review Committee continues to develop proposed revisions to the ABA Standards for Law School Accreditation. Our commentary addresses diversity programs in law schools, student learning outcomes, and reliance on other testing tools in addition to the use of the LSAT exam as a key factor in the admissions review process. Commentary has been shared with State Bar entities and other stakeholders focusing on law school admissions and accreditation. We are also discussing with Professor Marjorie Shultz (UC Berkeley Law) the application of the findings from her 10-year study on factors accounting for the successful practice of law and how to use the factors to supplement the LSAT, as well as for use in the employment setting re: hiring, evaluation and promotion of young lawyers. The COAF will continue to seek input from law schools and from the Committee of Bar Examiners and will eventually seek BOG approval for formal comments when the ABA issues proposed revisions to the ABA Accreditation Standards for official Public Comment.

Educating Law Students (Carnegie Foundation and other Law School Reforms): We are compiling information from law schools and representatives from LEARN (Legal Education Analysis and Reform Network) regarding reforms in law school curriculum and the implementation of the Carnegie Foundation and other recommendations for law student practical education. We will determine how to promote expanded practical training in California law schools and how to incorporate the identified skill sets in our attorney mentoring resources.

Legal Profession Projects:

Los Angeles County (Phase One): Legal Employer Focus Group questions have been developed and tested through individual interviews with representatives from law firms, corporate counsel, public interest offices, government employers and in-house diversity directors. The questions have been modified based on the feedback from these initial interviews, and focus groups will be convened to address the impact of the economic downturn on diversity programs in the various practice settings. Feedback and examples of model programs will be compiled for circulation to employers and other stakeholder groups focusing on diversity pipeline issues in the legal profession.

Mentoring Resources: Mentoring resources have been developed and will be expanded to incorporate practical skill sets identified in the Carnegie recommendations and through Professor Marjorie Shultz's study regarding key factors as predictors of successful lawyering.

Transition into the Law for Students/Young Lawyers from Diverse and Disadvantaged Backgrounds: We will be creating resource materials and tools for students from diverse and disadvantaged backgrounds to facilitate their transition into the legal profession beyond the substantive/practice of law requirements. These students/young lawyers often are not aware of the unspoken etiquette, effective communication techniques, and expectations inherent in the employment setting that are second nature to persons who come from backgrounds similar to the managers and colleagues in the work setting. The resources provided will help create a level playing field and allow diverse students/associates to be competitive in the employment arena.

Judicial Projects:

Online Application for Judicial Appointment: We created: "Tips and a Checklist" for the completion of the online judicial appointments application. We continue to coordinate with the Governor's Judicial Appointments Office to modify the "Tips" when the application form is changed and to alert the Governor's office when we learn of issues re: the online process.

Judicial Diversity Commentary: We update judicial diversity data and demographics on a regular basis and provide an analysis and commentary on Judicial Diversity for use by local and minority bars participating in the Bench Bar Coalition visits to the Legislature in Sacramento. The analysis shows that despite statements to the contrary, there are sufficient numbers of diverse attorneys in the applicant pool who have been evaluated as qualified by the State Bar Commission on Judicial Nominees Evaluation (JNE) and who are eligible for appointment. We also circulate the analysis to all local, minority, diversity and specialty bars throughout the state for use in their own judicial diversity programs and initiatives.

Judicial Diversity “Tool Kit”: We are participating on the Judicial Council Access & Fairness Advisory Committee Task Force to create a Diversity Tool Kit. The Tool Kit will include examples of diversity programs and initiatives and is designed to assist members of the bench in the creation and implementation of local programs to increase diversity among attorney applicants for judicial appointment.

Judicial Summit: We are planning a 2011 Judicial Summit to follow up on our initial summit held in June 2006. The 2011 summit will be a five year review, looking at progress made and the current status of judicial diversity in California, culminating with the creation of an action plan for increased diversity on the bench.

COAF Projects and Events:

COAF Diversity Stakeholder Outreach:

All members of the COAF are responsible for conducting outreach to local, diversity and specialty bars and other legal groups to provide information about the COAF initiatives and to forge a partnership for future collaboration. Any group needing a presentation should contact staff.

Diversity Stakeholder Forum and Diversity Awards Reception:

The 2010 Diversity Stakeholder Forum will be held during the State Bar Annual Meeting in Monterey in September 2010. The forum will provide the opportunity for open dialogue between the COAF and stakeholders and will focus on identifying and plugging specific leaks in the diversity pipeline in the context of the current economic downturn. The topics for this year’s program include (1) an update and dialogue on the status of the corporate “Call to Action” and creation of the Lawyer’s Council on Legal Diversity and (2) an analysis of judicial diversity in California.

Diversity and Education Pipeline Awards:

Each year the State Bar presents Awards acknowledging the contributions by an attorney, law firm and bar association toward increasing diversity in the profession. The Bar also presents an Education Pipeline Award for exemplary work educating students about the legal system and encouraging students to consider a career in the law. The nomination period for the Diversity and Education Pipeline Awards has closed (Annual Deadline: April 30th of each year) Application forms and guidelines can be viewed at www.calbar.org/AFCouncil in preparation for next year’s cycle. This year’s Awards will be presented at the State Bar Annual Meeting (following the Diversity Stakeholder Forum, noted above.)

Diversity Coalition—State Bar Appointments:

The COAF is conducting outreach to educate diverse attorneys about the opportunities and importance of applying for appointment to State Bar entities. Information has been compiled re the appointments process, tips for completing the application, and requisites for appointment for each State Bar entity. The COAF has also conducted appointments workshops to provide greater detail on the appointments process and application and to offer mentoring support and review of applications prior to submission. Annual deadlines are February 1st of each year, with appointments effective following the State Bar Annual Meeting in September/October. Applications can be found on the State Bar website at www.calbar.ca.gov (click on “About Us” then click on “Committees and Commissions”.)

Statement of Diversity Principles:

The COAF will renew its outreach in the coming year promoting the State Bar Statement of Diversity Principles (originally approved by the Board of Governors in 2005) and extend a “Call to Action” to legal employers and other entities for increased diversity in the legal profession, as well as among appointments to State Bar Sections, Committees and Commissions. A new Addendum has been created to provide model programs and links to resources as a guide to creating or expanding in-house diversity programs.

Online Model Diversity Pipeline Programs: The Council compiles a listing of Model Diversity Programs, which are posted on the State Bar Website and updated during the year. The Council continues to update its online listing of Model Diversity Pipeline Programs that meet its “CSIRE” criteria: Continuity, Sustainability, Impact, Replicability and Evaluation/Self Assessment.

EOB Video Production: We will be partnering with the California Bar Foundation to produce a one hour Elimination of Bias (EOB) video production that can be accessed by legal employers and attorneys for MCLE EOB credit. The video will consist of four 15-minute segments focusing on the challenges to the practice of law and elimination of bias in the practice setting for various diversity constituents including, ethnic minorities, women, and LGBT attorneys, as well as attorneys with disabilities. The segments can be viewed separately and incorporated into additional discussion and training re the respective topics, or they can be viewed all together for the full one hour credit.

Resource Materials:

Materials are posted online at www.calbar.org/AFCouncil and also are available in hard copy. Materials may be used for training and outreach events, with proper attribution to the State Bar Council on Access & Fairness. Please contact staff for further information or for additional hard copies.

- Diversity Pipeline Task Force Report
- Statement of Diversity Principles
- Challenges to Practice of Law for Attorneys from Diverse Backgrounds
- Challenges to Practice of Law for Attorneys with Disabilities
- Diversity Pipeline Road Show Slides
- Diversity Pipeline Task Force Courts Working Group Report
- Judicial Diversity Commentary and Resources
- Tips/Checklist on Completing the Online Judicial Application
- State Bar Appointments Overview and Tips for Applicants
- Brochure: “Want to be a Lawyer?”
- Brochure: “Disability Awareness: How to Accommodate Persons with Disabilities”
- Brochure: “Creating a Model Work Environment for LGBT Individuals”
- Brochure: “Understanding Transgender Law and Transgender Clients”

For Further Information Contact:

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Note: All diversity and elimination of bias activities are funded through voluntary contributions to the State Bar of California. No mandatory attorney dues are used for these purposes.