

**REPORT**  
**STATE BAR OF TEXAS**  
**TASK FORCE ON**  
**DIVERSITY, EQUITY, AND INCLUSION**

**JUNE 2021**

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## BACKGROUND

The State Bar of Texas has a longstanding commitment to diversity, equity, and inclusion. The State Bar’s Office of Minority Affairs implements and carries out initiatives to further the Bar’s commitment to respond to historical discrimination on the basis of race, sex, and sexual orientation, to improve career opportunities for all lawyers, and improve the quality of legal services in Texas.

In March of 2006, State Bar Presidents Eduardo Rodriguez and Martha Dickie requested the creation of a Task Force to study and make recommendations to the State Bar of Texas for actions to be taken to improve the hiring, retention, and promotion of minority and women attorneys in large and mid-size law firms and corporations in the State of Texas. (Notably, in 2005, the U.S. Census Bureau had announced that Texas had become a majority minority state.<sup>1</sup>) The 2006 Task Force produced a report with numerous recommendations including the expansion of the State Bar mission statement to include: *“encourage diversity among the participants in the administration of justice and the practice of law in Texas.”* Subsequently, the mission statement was amended to add: *“to promote diversity in the administration of justice and the practice of law.”* In subsequent years, the State Bar undertook many of the projects identified by the 2006 Task Force and set forth in the report dated January 4, 2007.

Moreover, Texas has become an even more diverse state since the 2007 Report. Consider some of the following statistics: since 2011, Hispanic students account for the majority of students in Texas public schools;<sup>2</sup> in 2019, Texas became home to the largest Black population in the United States;<sup>3</sup> in 2019, 4.1 percent of Texans (nearly 1 million) identified as LGBT;<sup>4</sup> and, in 2020, Asian-Americans were the fastest growing population in Texas.<sup>5</sup>

In 2020, State Bar President-Elect Sylvia Borunda Firth committed to provide a fresh look at the initiatives previously recommended and to create a new plan of action.

A 15-member Task Force on Diversity, Equity, and Inclusion (DEI) was created to study and propose actions to promote diversity, equity, and inclusion in the administration of justice and the practice of law. The task force members included representatives from the following groups:

1. African American Lawyers Section
2. Asian-Pacific Interest Section

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<sup>1</sup> “Today in Texas History: Texas becomes a minority-majority state,” <https://blog.chron.com/txpotomac/2010/08/today-in-texas-history-texas-becomes-a-minority-majority-state-2/>.

<sup>2</sup> “Hispanic students now majority in Texas public schools,” <https://www.reuters.com/article/instant-article/idUSTRE72M8KO20110323>; “Enrollment in Texas Public Schools 2010-11,” [https://tea.texas.gov/sites/default/files/Enroll\\_2010-11.pdf](https://tea.texas.gov/sites/default/files/Enroll_2010-11.pdf).

<sup>3</sup> “The Growing Diversity of Black America,” <https://www.pewresearch.org/social-trends/2021/03/25/the-growing-diversity-of-black-america/>.

<sup>4</sup> LGBT Demographic Data Interactive (January 2019), Los Angeles, CA: The Williams Institute, UCLA School of Law, available at <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT&area=48#about-the-data>.

<sup>5</sup> “As The Asian American Population Grows in Texas, So Does Its Political Power,” <https://www.texasstandard.org/stories/as-the-asian-american-population-grows-in-texas-so-does-its-political-power/>

3. Hispanic Issues Section
4. LGBT Law Section
5. Native American Law Section
6. Women in the Law Section
7. Disability Issues Committee
8. Diversity in the Profession Committee
9. Women in the Profession Committee
10. Texas Young Lawyers Association
11. Other members of historically underrepresented communities and allies of those groups.

The 2020 Task Force was charged with reviewing the 2007 Report, reviewing and assessing State Bar activity in certain categories, and making recommendations to President-Elect Sylvia Borunda Firth and the State Bar Board of Directors. Assignments for the task force specifically included:

- Review the 2007 Report and determine which of the action items recommended and not completed should be advanced for further consideration
- Review proposals submitted by members as proposed action items
- Review ideas for presidential initiatives for 2021-2022
- Consider proposed revisions to the Texas Lawyer's Creed
- Consider and suggest updates to the Office of Minority Affairs and its offerings
- Review the mission and current configuration of the Diversity in the Profession Standing Committee
- Make recommendations for mandatory training for officers and directors to foster an environment of cultural sensitivity and inclusion
- Discuss ways to create a pipeline to increase participation in SBOT leadership by minority members of the Bar
- Consider other matters selected by a majority of the members of the Task Force

These tasks were to be accomplished by a division of labor among and between five subcommittees. Task Force members divided into groups to focus on the following areas:

- 1) Communications
- 2) CLE/Education
- 3) Implicit Bias
- 4) Pipeline
- 5) Administrative

This report includes: 1) an analysis of work which has been done as a result of the 2007 Report; 2) recommendations for completion of remaining work from the 2007 Report; and 3) new recommendations from the Task Force to promote diversity, equity, and inclusion in the administration of justice and the practice of law.

## TASK FORCE MEMBERS

President-Elect: Sylvia Borunda Firth

Chairperson: Jose “Joe” Escobedo Jr.

Members:

- Lynn Bradshaw
- Rehan Alimohammad
- Tracy Cantu Almanzan
- Jesús Castellón
- Michelle Cheng
- Tobias Cole
- Leigh Hunt Goodson
- Punam Kaji
- Matthew Manning
- Hon. Rudy K. Metayer
- J. Goodwille Pierre
- Chris Pineda
- Mark Stromberg
- Lisa Tatum

# RECOMMENDATIONS

## I. COMMUNICATIONS

The Communications Subcommittee included the following members: Leigh Hunt Goodson from the Women and the Law Section; Michelle Cheng, former Minority Director for the State Bar of Texas; and Lynn Bradshaw, from the Women in the Profession Committee.

The Communications Committee was tasked with the following:

1. Review the 2007 Report to see if any ideas should be revisited;
2. Brainstorm methods of communicating DEI ideas with membership beyond email blasts and social media;
3. Brainstorm DEI resources to offer online;
4. Revisit suggestions for diversifying Texas Bar Journal content and authors;
5. Propose appropriate and relevant revisions to the Texas Lawyer's Creed; and
6. Identify any potential project(s) for 2021-2022 presidential initiatives.

### Review of the 2007 Report

More than 13 years ago, a State Bar Task Force made recommendations to improve women and minority attorney representation in large and mid-size law firms and corporations. The report included statistics that addressed the disparity between the general population of the State, and the number of women or minority lawyers who were employed as lawyers in Texas's largest law firms. That Task Force focused on "glass ceiling" issues that predominated corporate discussions at the time. During that time, the Task Force was able to:

- (1) Change the mission statement of the State Bar;
- (2) Implement a leadership program within the State Bar;
- (3) Include diversity resources on the State Bar website; and,
- (4) Enhance pipeline and civics courses through the State Bar.

The Communications Committee identified the following items from the 2007 Report that still need to be addressed:

- (1) Examine current programs at the Bar and continue to improve those programs.
- (2) Expand the focus to include Millennials and incorporate their perspectives.
- (3) Expand from a "glass ceiling" study to include all DEI issues.
- (4) Find incentives such as giving CLE credit for DEI.

## The Communications Subcommittee makes the following recommendations:

### A. Methods of Communicating with State Bar of Texas Members

The Communications Committee was tasked with brainstorming methods of communicating with membership beyond email blasts and social media. A list of ideas is presented below:

- 1) Opt-in list in addition to general email blasts – While it goes without saying that the persons least likely to opt into a DEI email list may be the ones most likely to benefit from this information, it might nevertheless be helpful to create an opt-in email list for members with a specific interest in DEI. For example, in July of 2020, the Austin Bar Association offered a 21-day Racial Equity Habit-Building Challenge Curriculum, and its members could opt into an email list that would email a daily challenge related to the curriculum. Provided that future use of the list was disclosed to members opting in, such a list could be useful for future DEI efforts.
- 2) Social media posts in lawyer groups – We felt it important to point out the usefulness of not only posting items on the State Bar’s official social media channels, but also partnering with the administrators of Facebook groups composed of Texas lawyers to have items of interest posted within those groups, as well. These Facebook groups are very active on a daily basis and would undoubtedly boost the reach of the State Bar social media channels significantly. (Disclosure: one of the communications committee members serves as an administrator for the largest of these groups.)
- 3) Mentions at State Bar CLE – State Bar CLE programs are well-attended and draw a wide range of lawyers. Incorporating relevant information as announcements at CLE, including the Annual Meeting, will help amplify the Bar’s efforts.
- 4) “Badge” for CLE offerings that meet certain DEI criteria – Creating a “badge” to signify CLE offerings that meet certain pre-established DEI criteria would not only help members identify programs to support but would also remind and encourage CLE organizers to diversify their programs.
- 5) DEI Resources Section on the Home Page of State Bar website – Although the State Bar currently has some diversity-related content on its website, it is scattered throughout the site and not easy to find. A centralized location for diversity-related material with an easy-to-find link on the home page is recommended.
- 6) Texas Bar Journal articles – As described in more detail below, the *Texas Bar Journal* is another vehicle the State Bar can use to communicate DEI-related issues to its membership.

- 7) Texas Bar Blog – The Texas Bar Blog can also be used to convey DEI-related issues to membership.
- 8) Publications on “Our News” section of the State Bar website – The State Bar website currently has an “Our News” section on the Home Page of its website. Items of timely, topical interest (for example, the publication of this Task Force’s report) could be publicized there.

## **B. Resources to Offer Online**

There is no shortage of DEI-related content that could be offered online; the most difficult part may be narrowing down the options and presenting them in such a way that the content remains useful without being overwhelming. Our primary recommendation is to create a centralized, easy-to-find section for this content that is linked from the Home Page of the State Bar website.

Below is a list of possible resources that could be included on a DEI section of the State Bar’s website:

- 1) DEI toolkit for bar associations (TYLA has already created this, but it should be linked here);
- 2) Implicit bias resources and training materials;
- 3) Links to similar training by other bar associations / trusted sources;
- 4) Special section for employers: model policies; best practices; information on maternity/paternity leave;
- 5) Links to national diversity organizations;
- 6) Links to State Bar affinity sections;
- 7) Links to affinity bar associations, listed by city/geographic area;
- 8) Information for allies – how to be a good ally;
- 9) Heritage months/calendars;
- 10) Religious calendars noting relevant holidays;
- 11) Link to the Career Center;
- 12) Link to Office of Minority Affairs;
- 13) Links for resources for diverse individuals who are interested in becoming lawyers – e.g., links to law school or scholarship opportunities, mentoring programs, etc.

## **C. Diversifying the *Texas Bar Journal***

The previous task force recommended the use of the *Texas Bar Journal* as a vehicle for communicating the State Bar’s diversity-related goals. The previous task force made several suggestions with respect to the *Journal*:

- Include a monthly column on a diversity topic;

- Include a monthly column on issues of particular interest to women attorneys;
- Develop topics such as mentoring, negotiating firm/corporate politics, and professional and business development.

Some diversity-related material was published as a result of the 2007 Report recommendations. It is our opinion that any recommendations made by this Task Force must ensure that provisions are built into the process so that institutional memory is maintained over time and in the event of staff changes.

This committee recommends the *Journal's* staff continue to include information such as these recent additions:

- In 2020, the *Journal* worked with the Diversity in the Profession Committee to publish three articles (published in June and July of 2020) containing diversity-related content.
- The *Journal* staff collaborated with the Diversity in the Profession Committee and the Women in the Profession Committee to publish an issue highlighting Women's History Month for March of 2021.
- The *Journal* staff is working on a diversity-themed issue for July/August 2021.
- Members of the *Journal's* Board of Editors are encouraged to seek out diverse topics and authors when planning issues ("diversity" in this case is broadly defined to include diversity of topics, authors, authors' geographical location, authors' firm size, etc.)

Bar staff also implemented an [Author Interest Form](#), which would allow persons interested in writing an article for the *Journal* to submit their information to be included in an author database. However, this form does not ask the party to disclose their race, gender, ethnic background, LGBTQ status, or other diversity-related information (though it does have an open-ended blank to include information about "affiliations" and a blank for "additional comments.") While we have some concern that requesting this information might feel invasive to some authors, we feel that the current open-ended blanks do not sufficiently elicit diversity-related information. Further, providing this information can be kept on a purely voluntary and optional basis.

It is apparent that the *Journal's* staff has made efforts to increase diversity of topics and authors. However, we believe additional efforts could be made, and make the following recommendations:

- 1) Recurring appointment of diversity editors – The *Journal's* Board of Editors is comprised of eighteen persons, one-third of whom roll off every year. Appointing a dedicated diversity editor for each term (for a total of three at any given time) will ensure that there are always three editors who – in addition to normal editor duties – will be specifically tasked with ensuring that consistent efforts are made to diversify the *Journal*.

- 2) Changes to Author Interest Form – As mentioned above, we believe that an Author Interest Form with a little more guidance would help assist the Board of Editors and staff in achieving their diversity goals. Accordingly, we recommend that the following be added to the Author Information Form: “The *Bar Journal* seeks out authors with diverse perspectives. If you would like to share any information about yourself to assist with this goal, please share it here.”
- 3) Better, more targeted sharing of the Author Interest Form – More concerted efforts to publicize the Author Interest Form on an annual, semi-annual, or even quarterly basis, particularly within the affinity bars, would also help achieve the *Journal’s* diversity goals. This would ensure that the Board of Editors has a wide range of authors and a fresh set of article topic ideas from which to draw.
- 4) Carry forward previous Task Force recommendations: Two of the 2007 Report recommendations—a monthly column on a diversity topic and a monthly column on issues of particular interest to women attorneys—bear repeating. Incorporating these columns as a regular feature in the *Bar Journal* would serve as a monthly reminder to both readers and *Bar Journal* editors/staff of the importance of including content relevant to women and minorities.

#### **D. Revisions to the Texas Lawyer’s Creed**

After speaking with many lawyers involved in State Bar leadership, utilizing resources offered by the American Bar Association to research the creeds and professionalism codes of other state bar associations, reviewing the Diversity Task Force Report to the State Bar of Wisconsin Board of Governors (2014) and incorporating written recommendations by Joe Escobedo and Gregory Hitt, our proposed revisions are found in Exhibit “A”.

#### **E. Potential Projects for 2021-2022 Presidential Initiatives**

- 1) Impact of the Pandemic on Women and Minority Attorneys

We must address the COVID-19 pandemic and its immediate and long-term impact on the profession. We anticipate the loss of women and minorities from the profession, a loss the profession can ill afford. Prior to the pandemic, the ABA reported that the overall attrition rate for women lawyers was greater than that of male lawyers across roles. Minority attrition rates were already 2 to 3 times higher than for White attorneys across roles.<sup>6</sup>

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<sup>6</sup> 2020 ABA Model Diversity Survey reported from data collected in 2017, 2018 and 2019 available on-line at: <https://www.americanbar.org/groups/diversity/DiversityCommission/model-diversity-survey/>

As recently recognized by Vice President Kamala Harris, the current exodus of women from the workforce has created a state of emergency. “About 2.5 women have lost their jobs or dropped out of the workforce during the pandemic. That’s enough to fill 40 football stadiums. This mass exodus of women from the workforce is a national emergency, and it demands a national solution.”<sup>7</sup> A recent study has recognized that the Pandemic has disrupted years of progress in advancing gender diversity.<sup>8</sup> Statistics from the Department of Labor indicate women are exiting the workforce at a rate as much as four times the rate of men. “Where there is a crisis, it’s women who are expected to step back. We’re dealing with a system set up in the 1950s,” according to a senior director at a nonprofit that studies gender equality in business.<sup>9</sup> And women of color face the threat of job loss at a disproportionately higher rate.<sup>10</sup>

How State Bar leadership responds to this crisis will define the future of the profession in the State of Texas.

Pre-pandemic, women in top positions in the legal profession continued to lag behind their male counterparts. In 2019, women equity partners nationwide accounted for only approximately 20% of the total equity partnerships in firms across all firm sizes.

These numbers were reduced even more when it came to firm leadership roles and compensation. According to the findings from the recent ABA survey:

- Firm leadership overwhelmingly consisted of White men relative to White women and minorities (race/ethnicity, LGBTQ+ and disability) of any gender identity.
- Minority males and females consistently ranged between 0% to 2% of the top 10% highest paid attorneys in law firms.<sup>11</sup>

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<sup>7</sup> [https://www.washingtonpost.com/opinions/kamala-harris-women-workforce-pandemic/2021/02/12/b8cd1cb6-6d6f-11eb-9f80-3d7646ce1bc0\\_story.html](https://www.washingtonpost.com/opinions/kamala-harris-women-workforce-pandemic/2021/02/12/b8cd1cb6-6d6f-11eb-9f80-3d7646ce1bc0_story.html).

Additional accounts of the crisis caused by the Pandemic and the exodus women from the workforce can be found at:

- <https://www.law.com/americanlawyer/2021/01/19/my-career-is-basically-over-working-parents-offer-pleas-for-empathy-from-law-firms/>
- <https://www.rand.org/blog/2020/11/women-are-leaving-the-labor-force-in-record-numbers.html>
- <https://www.americanbar.org/groups/diversity/women/publications/perspectives/2021/december/worklife-imbalance-pandemic-disruption-places-new-stresses-women-lawyers/>

<sup>8</sup> <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/women-in-the-workplace#>

<sup>9</sup> Cited in: <https://www.americanbar.org/groups/diversity/women/publications/perspectives/2021/december/worklife-imbalance-pandemic-disruption-places-new-stresses-women-lawyers/>

<sup>10</sup> <https://www.mckinsey.com/featured-insights/future-of-work/covid-19-and-gender-equality-countering-the-regressive-effects>

<sup>11</sup> 2020 ABA Model Diversity Survey reported from data collected in 2017, 2018 and 2019 available on-line at: <https://www.americanbar.org/groups/diversity/DiversityCommission/model-diversity-survey/>. The Summary of Findings, all of which are informative, are found on pages 19-20 of the survey report. The equity partnership numbers are found on pages 23-24 of the survey report.

## 2) Goals and Initiatives

With this backdrop in mind, we recommend the following initiatives and goals for Mrs. Firth's Presidency:

- a. Make the impact of the pandemic a top priority. This subcommittee anticipates that the pandemic has and will disproportionately impact women and minorities, resulting in these groups experiencing greater attrition from the legal practice. It is highly recommended that we take steps to proactively address this impact on our profession. By addressing these issues, the State Bar would also be addressing societal issues that have a disparate impact on women and minorities even when there is no pandemic, such as issues surrounding childcare and law school student loan debt.

Members for the Women in Profession Committee and Women in the Law Bar Section can be drawn upon for support for this endeavor. Currently, the Women in Profession Committee is planning to send out a survey to its membership to collect data concerning the impact of the Pandemic on woman attorneys and to determine what resources the Bar should offer.

We recommend that President-elect Mrs. Firth get the word out to encourage members to respond.

- b. Institutionalize DEI. Create a permanent DEI Oversight Committee to succeed this Task Force and ensure follow up regarding this Task Force's recommendations and the continual update and oversight of the State Bar's diversity goals and initiatives.
- c. Integrate Record-Keeping. Create and maintain records regarding the State Bar's DEI initiatives and document their efficacy. This will not only help track the history of these initiatives, but also inform continuing DEI efforts and provide data concerning the specific initiatives that made the most impact so specific efforts can be expanded.
- d. Marshal resources and staffing. Based on the limited resources and staffing currently dedicated to these issues, the only way the Task Force recommendations will ultimately prove to be successful is if DEI initiatives are allocated more money and more people. As stated in an article posted on the current Texas Bar website written by two DEI experts, current programs are not creating measurable changes and we have to look at alternatives.

"The truth is that all changes must start at the top. Companies and law firms that only dedicate a small team toward DEI or hire a DEI leader but don't

provide a support team, money, and latitude to make true changes are destined to earn the same results year after year.”<sup>12</sup>

Based on the data reviewed by the 2020 Task Force it is clear that true commitment to DEI requires allocating a set percentage of the annual operating budget to DEI. A determination of a suggested budget percentage was beyond the scope of this report.

- e. Update the State Bar website. A dynamic website with clear messaging and useful resources requires a dedicated team to address marketing, branding, content and communication. Identify a clear vision for the new administration, focused on DEI in the profession. Much like the ABA, the website should include a dropdown menu on the banner that includes DEI resources: <https://www.americanbar.org/>
- f. Focus on education and training. Provide useful resources on DEI as a part of the website which includes training, workshops, and toolkits.
- g. Make it Free. Offer free CLE and ethics credit for diversity and implicit bias training.
- h. Work with the ABA. Currently, the ABA offers a host of Diversity and Implicit Bias training, for which the ABA’s website indicates Texas is one of the few states that does not offer CLE credit for these courses. Change this as soon as possible.
- i. Rebrand and/or Rename the “Office of Minority Affairs.” The identity of the department tasked with these goals should be modernized and more clearly reflect the broader issues of Diversity, Equity and Inclusion.
- j. Draw on the expertise of others. Seek out experts outside the profession. For example, draw from university women and gender studies programs, such as UT's Center for Women's & Gender Studies.
- k. Leverage Data. The DEI-related information the Texas Bar currently analyzes with respect to women and minority attorneys should include more information, including the position where they work and the size of their firm.
- l. Amplify DEI efforts of local bar associations and other local organizations. There are already a number of local bar associations, Inns of Court, and other local organizations that are doing great work with respect to DEI. Amplifying those efforts would provide recognition and also, inspire other local bar and other organizations to follow suit.
- m. Leverage firm cooperation. Firms of all sizes should be encouraged to adopt DEI policies and practices. Further, law firms should be encouraged to provide billable

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<sup>12</sup> [https://lsc-pagepro.mydigitalpublication.com/publication/?m=21412&i=660935&view=articleBrowser&article\\_id=3679035&ver=html5](https://lsc-pagepro.mydigitalpublication.com/publication/?m=21412&i=660935&view=articleBrowser&article_id=3679035&ver=html5)

credit for DEI training. Firms that adopt and implement these policies should be formally recognized by the State Bar.

- n. Pursue the other recommendations contained in this report. A number of other recommendations are contained in this report, regarding improving communications with membership; adding resources online; diversifying contributions to the *Texas Bar Journal*; and revising the Texas Lawyer's Creed. We believe these recommendations should serve as the foundation for the next President's initiatives.
- o. Inform. Put together a comprehensive communications package from the President's office regarding DEI efforts.

## II. CLE/EDUCATION

The **CLE/Education** Subcommittee included the following members: Tracy Almanzan, Jesús Castellón, and Mark Stromberg. This Subcommittee makes the following recommendations:

### A. Improve Current State Bar CLE Offerings

The CLE/Education Committee determined trainings on implicit bias and DEI issues are needed in Texas. Currently, the TexasBarCLE website lists “no matches found” when the words diversity, inclusion and implicit bias are entered. In addition, the TexasBarCLE website should have a DEI section under “practice areas”.

### B. Add Low-Cost and Free DEI CLE Options on a Regular Basis

The CLE/Education Subcommittee feels strongly that TexasBarCLE should develop one hour of online instruction on implicit bias which would be offered free of charge, be eligible for MCLE ethics credit and be updated every 2-3 years. Further, the following are additional examples of free or low-cost DEI options that could be offered:

- 1) “Unconscious Bias”
- 2) “The Value of Diversity”
- 3) “History of Racism”
- 4) “Mastering the Art of Self Promotion”
- 5) “Bloom Where Planted” = classes that teach diverse attorneys leadership principles to empower and motivate
- 6) Classes focused on encouraging entry-level diverse attorneys to stay in law firms
- 7) “Diversity Fatigue Sucks” = developing and sustaining fresh and relevant inclusion programs

### C. Diversify CLE Faculty (speakers, authors, planning committee members, course directors)

- 1) Recommend MCLE providers recruit, hire and/or select diverse trainers and speakers who have academic training or past experience on the topic of implicit bias within a reasonable period of time from adoption of such recommendation. Further, diversity among CLE course directors should be encouraged.
- 2) Revamp the “Minority Attorneys at the Podium” program, which offers a way for CLE Course Directors to find diverse speakers:
  - a. Make it easier to find
  - b. More advertising
  - c. Speaker form needs to be redone (add topics offered by each speaker)

#### **D. Attract and Incentivize Non-Diverse Attorneys and/or Allies to Take DEI Trainings**

- 1) Make some DEI trainings free
- 2) Make some DEI CLE available online
- 3) Offer that those who attend DEI trainings get a discount on bar books, bar dues or a future CLE
- 4) Consider use of the phrase “unconscious bias” rather than implicit bias
- 5) Offer a certificate or some other way for government offices or firms to highlight their “support” of DEI issues

Create a streamlined process for small self-directed groups of attorneys and judges to obtain CLE credit based on discussion of books or documentaries dealing with DEI topics. A small group setting may encourage people to be more open and honest about difficult topics. And diversity within the small groups should also be encouraged so that participants learn about different views and experiences. As an example, see the Tarrant County Bar Association’s Diversity Book Club discussions.

Grant CLE credit to minority legal history courses with the honor system caveat that an hour counts as two hours if it’s a course involving a (minority) group that is not your own. In other words, encourage everyone (diverse and non-diverse attorneys alike) to learn more about the legal struggles of different groups.

#### **E. Potential Projects for 2021-2022 Presidential Initiatives**

- 1) Ask law firms, government and corporate entities in the state to pledge that their workforces will take and attend at least one hour of instruction on implicit bias or DEI per year and publish (and update) such pledges online and in the Texas Bar Journal.
- 2) Take reasonable efforts to select members of the MCLE committee who are representative of the diversity of persons in the State of Texas.
- 3) Establish objectives for implicit training bias courses offered by the State Bar (i.e., must include actionable steps to take, describe the effects of implicit bias on people interacting with the legal system).
- 4) Encourage judges throughout the state to require court appointed attorneys to take a set number of hours of DEI CLE (as ordered by Judge Sandill in Houston).
- 5) Require that all State Bar sponsored CLEs have at least .5 hours of DEI training for every full day of CLE.
- 6) Increase funding for the Minority Affairs Office.
- 7) Increase funding for the Diversity in the Profession Committee.
- 8) Create a standing group that is recognized by the State Bar that includes designees of the affinity groups and committees (ex. Diversity in the profession) that meet regularly to support DEI initiatives.

### III. IMPLICIT BIAS

The Implicit Bias Subcommittee included Toby Cole, Punam Kaji, and J. Goodwille Pierre. This committee reviewed the 2007 Report and found that:

- There is no mention of implicit bias training in the Report (the training and terminology was not yet part of the regular vocabulary around DEI)
- The Report recommends that the State Bar create and provide training around best practices for diversity in the legal field
- The Report recommends that current State Bar events include more DEI training
- The Report recommends that DEI training be highly recommended and encouraged for all members of the State Bar as ethics credit

The Subcommittee recommends adopting all of these measures, which were not previously adopted formally, although informal progress has been made.

In addition, the Implicit Bias Subcommittee makes the following recommendations:

#### A. Mandatory Training for Texas Lawyers.

The State Bar of Texas is currently faced with an opportunity to show the importance it places on ensuring Texas lawyers are equipped to provide fair, impartial, and unbiased representation. The State Bar of Texas is already behind in including DEI/bias training as part of their MCLE requirements. Many bar associations include DEI/bias training as part of their MCLE requirements, two of which specifically call out credit hours that must be devoted exclusively to DEI/bias: [California](#), [Missouri](#).

This task force recommends the following change be made to the MCLE requirements for all attorneys licensed in Texas:

Every active State Bar of Texas member must complete a minimum of 15 hours of accredited CLE during each MCLE compliance year.

- 12 of these hours *must be* in accredited CLE classes
- 3 of these hours *must be* in legal ethics/legal professional responsibility
- **1 of the 3 ethics credit hours *must be* devoted exclusively to explicit or implicit bias, diversity, inclusion, or cultural competency.**
- 3 of these hours, including 1 hour of legal ethics, *could be* in self study.

#### B. Create List of Potential Speakers / Facilitators on DEI, Implicit Bias, and Related Topics.

A list of potential speakers and facilitators on DEI, Implicit Bias and related topics should be compiled by the State Bar and criteria developed to properly vet these speakers.

The Subcommittee further recommends the following regarding possible speakers:

- The State Bar create a new landing page for DEI on the website which would include this list
- The website would include a link to a form to submit additional speakers
- The speakers could be reviewed and added to the website periodically. The process of the application form would ensure speakers are vetted and approved as quality trainers
- The list would serve as a resource for firms, attorneys, groups, corporations, etc., seeking to organize a training session
- The list could be further developed to include: (1) links (2) contact information (3) location of the speaker (4) whether the speaker has JD

### **C. Rebranding of Implicit Bias training and the larger umbrella of DEI.**

- The current “Minority Affairs” terminology suggests that the State Bar has programs to serve minority attorneys, but not DEI as a whole for the State Bar. Change the terminology to DEI as a larger umbrella to bring in the full State Bar and bring in more topics.
- Implicit Bias training as a terminology has become less effective over time, less catchy, and offensive to some who find it to be accusatory.
- Include under DEI training a variety of training programs rather than pushing “implicit bias” training.
- Types of training that fall under DEI training:
  - Implicit Bias / Unconscious Bias Training
  - The Neuroscience of Decision-Making
  - Critical Thinking to Combat Bias
  - Inclusive Team Building
  - Anti-Racism Training
  - Anti-Discrimination Training
  - Combatting Racism and Discrimination
  - Eliminating Stereotypes
  - Equal Opportunity Workplaces
  - The History of Racism and Sexism in the Practice of Law
  - Creative Diverse, Equitable, and Inclusive Workplaces
  - Conversations about Inclusion, Diversity, and Equity
  - Cross-Cultural Conversations
  - Developing an Inclusive Workplace Culture
  - Programs Specific for Certain Settings: Ex. Combatting Bias in the Courtroom, Voir Dire & DEI, Mediation and Bias, Deal Work and DEI.
  - Programs specific for certain groups: The Unique Challenges for Women in the Legal Field, The LGBTQ Experience in the Practice of Law, etc.

#### **D. Make the Courses Readily Accessible.**

- Ask State Bar partners (affinity sections, local bars, young lawyers organizations, etc.) to record Diversity Programming so it can be included on the website.
- Periodically the State Bar should refer back to this Texas Bar CLE website so that the State Bar members know the material is available.
- Programs falling under this umbrella should be vetted for quality and approved for CLE.
- The DEI CLE must be tracked and measured and thus will need its own code
- Include surveys after each training to receive feedback.
- Use the surveys to create testimonials regarding positive feedback.
- Select programs should be shared virtually state-wide, including live sessions where folks can meet one another and network.

#### **E. Incentives for Participating in the DEI training.**

The Task Force recommends that DEI training be mandatory for all members of the State Bar. Given the increasingly diverse population of Texas, the Task Force finds that this training is critical to competent and professional representation.

Furthermore, the business world understands that DEI education means competency and professionalism in their work force and in their leadership. In the business world, economic growth is tied directly to DEI education and training.

The Task Force distinguishes DEI training as a larger umbrella from the specific topic of implicit bias training, which may be too narrow and less impactful. The Task Force also recognizes that a phased approach which prioritizes mandatory training for State Bar Leaders, and members of the Judiciary, and overtime includes more segments of the Bar could be the best approach so that the project is piloted with some groups, and the training requirement is eventually accepted as the norm.

What realms exist where DEI training could be made mandatory, or encouraged to be made mandatory?

- Leadership training for State Bar leaders. DEI training could be incorporated into existing leadership training for State Bar directors, Section leaders, Local Bar Leaders Conference; etc.
- Corporate counsel trainings
- Trial advocacy/practice trainings. Litigators and judges are already discussing the role that explicit and implicit bias may play in jury selection and jury verdicts. For example, in Dallas County Civil Courts, judges are utilizing new jury instructions to combat the risk of implicit bias; and in Harris County, at least one judge (Judge Sandill) is now requiring that mediators seeking appointments participate in a bias course at least every four years. DEI training should be incorporated into existing courses

- Mediators/arbitrator trainings. The vast majority of civil cases settle out of court. Given the role that mediators and arbitrators play in the legal system, they should reflect the face of Texas and aim to be responsive to Texas' diverse population
- Board Certification. Attorneys who are Board Certified already have additional CLE requirements. This would be a space where the Bar could require a certain number of hours in DEI education and training for Board Certification in any subject matter, because DEI and critical thinking are part of competency for attorneys

In addition to moving towards mandatory training, incentives will be very important. To highly encourage attorneys to utilize the programs the Subcommittee recommends offering some incentives:

- Offering economic incentives such as giving a 10% discount off of annual dues to attorneys who take a certain amount of implicit bias training or DEI courses
- Highlight "diversity champions" similar to pro bono champions. Provide a branded logo that State Bar Members can include on their websites, LinkedIn pages, email signatures, etc. highlighting that the attorney is a Diversity Champion after completing so many hours of DEI training
- Highlight corporate and firm sponsors of the State Bar's DEI initiatives. Create a sponsorship system for firms and corporations to donate to the DEI initiatives as a whole rather than to particular events. This will create funding for year-round programs and maintenance

## IV. PIPELINE

The Pipeline Subcommittee included Rehan Alimohammad, Matthew Manning, Chris Pineda, and Lisa Tatum. The Pipeline Subcommittee makes the following recommendations relating to providing pipeline programs and resources aimed at improving DEI:

### A. **Directory of pipeline programs on State Bar website.**

This was recommended in the 2007 Report and remains an important need. The directory should be user-friendly and “eye-catching.” Broad categories of pipeline programs could include K-12 (with a link to the Texas LRE website); College; Law School; and Lawyer Capacity/Leadership. Notably, the ABA has a list of “diversity pipeline” programs around the country, including programs in Texas. The subcommittee identified numerous pipeline programs that may not be well-known outside their region due to the lack of a central repository for this information.

### B. **Survey of existing pipeline programs.**

Survey contacts of existing pipeline programs in Texas to identify programs in place, and learn more about their successes, challenges, and opportunities where State Bar could provide support. Start with State Bar affinity sections and local bar associations.

### C. **Place “college and law school diversity pipeline” oversight/tracking within the State Bar.**

While K-12 pipeline programs are generally housed (or capable of being housed) or overseen within the LRE Committee, and lawyer-to-leader pipeline programs are within the scope of the Diversity in the Profession Committee, there does not appear to be a “home” to track and support college and law school pipeline programs in Texas. Consider options to house oversight of college and law school pipeline programs, whether by (1) creation of a new State Bar committee or working group, (2) broadening the scope of an existing committee’s charge, and/or (3) placing oversight responsibility with one or more of the at-large director positions.

This recommendation could be combined with next two recommendations in a 1-to-2-day conference, much like Bar Leaders but focused on law school students and faculty.

### D. **Annual law school deans’ roundtable.**

There have been meetings with law school deans in the past at the annual meeting, but no continued effort to make this an ongoing conversation. Bar leadership has also hosted meetings at the State Bar building for State Bar leadership and law deans, but, again, without a continuous effort. Consider having a law school deans’ roundtable (that is a half-day) at least every year. At these meetings, deans and State Bar leadership can share ideas and discuss DEI

efforts, best practices, pipeline programs, etc. This would also be an opportunity to keep law school deans updated about State Bar programming.

This recommendation could be a track at a conference or possibly a dinner event with a speaker and interactive discussion.

**E. Statewide diversity pre-law summit.**

Consider hosting a one to two-day annual conference aimed at minority undergraduate students interested in law school. Currently, some universities and nonprofit organizations have pre-law summer academies for selected college students, while there are two national pre-law summits that have developed for African-American undergraduate students. However, there does not appear to be any existing statewide program for diverse undergraduate students interested in law school. As such, there may be a gap in the pipeline between college and law school that the State Bar can address. For planning purposes, consider asking that each affinity section dedicate a representative to the planning committee.

**F. Mentor match-up program/network for local bar leaders.**

Consider creating a mentor program—or at least a network—to help connect diverse local bar presidents, who are rotating off local affinity bar associations and interested in State Bar leadership roles, with current or former minority SBOT leaders. Unwritten rules around the state appear to be a barrier—whether real or perceived—that may be preventing qualified diverse candidates with leadership experience from running or applying for State Bar positions. As such, a network or mentor program should be created to connect individuals with demonstrated local leadership experience—such as attorneys rotating off a local Black, Hispanic, Asian-American, or Women’s bar association or border bar association—with a local go-to contact with State Bar leadership experience. (Examples: Lisa Tatum in San Antonio, Rehan Alimohammad in Houston, and Joe Escobedo in the Rio Grande Valley.) While there may be unwritten rules to run for SBOT positions, these rules can be overcome if attorneys know who to talk to and what to do. And even if there are no such barriers, it is important that local leaders know who they can talk to locally if interested in State Bar positions. This is a great way to connect the talent with the leadership. The Bar Leaders Conference is a good starting point to put this into motion.

## **V. ADMINISTRATIVE**

The Administrative Committee was tasked with reviewing the administrative functions of the State Bar of Texas and consists of the following members: Rehan Alimohammad, Rudy Metayer and Lisa Tatum with Caren Cheavens serving in an advisory capacity, as the staff liaison.

The charge of this committee is to review and make recommendations, if any, in the following areas:

1. Review the 2007 Task Force Report and determine whether any aspects should be revisited;
2. Review the Policy Manual to suggest changes;
3. Draft recommendations with explanations for proposed changes to staffing, organizational structure, and budget;
4. Review collected demographic information and proposed changes;
5. Draft recommendations for mandatory annual DEI training for officers and directors; and
6. Identify potential projects for Sylvia Firth's Presidential Initiatives.

The Administrative Committee also felt it prudent to review the input of the other sub-committees when making recommendations related to its third charge.

The review performed by this committee has been conducted through the following lens: The State Bar of Texas has for more than a decade been strategic in its planning. The strategic plans since, at least, Fiscal Year 2010 have clearly stated the State Bar of Texas is purposed, in part, with a direct role in (1) hiring and retention of under-represented members, (2) development and promotion of participation of members whose access to State Bar services has historically been restricted and whose participation in State Bar activities has historically been low, (3) encouraging diversity education, plans and programs to membership, (4) enhancing services to and collaboration and communication with Sections, local bar associations, minority bar associations, specialty bar associations, national bar associations, law schools and law students, and (5) promoting the development of and participation at all levels of education that encourage a more diverse population to select law as a profession.

### **A. Review of the 2007 Task Force Report**

The 2007 Task Force Report does include a short discussion of tracking certain statistical and geographical information of our members. The 2006 Task Force does not appear to have been charged with the tasks of this Administrative Committee. There is no discussion of relevant aspects of the Policy Manual or the State Bar's staffing, organizational structure or budget, which are primary administrative functions. We will assume that upon reflection, it is the desire of the State Bar of Texas to contemplate the recommendations of the Task Force within the context of development, implementation, and sustainability.

## B. Review of the State Bar of Texas Policy Manual

There are three aspects of the State Bar Policy Manual that are ripe for discussion and consideration in the active recruitment of bar leaders to fortify the Bar's commitment to diversity and inclusion.

- **Bar Policy 2.01.05** affords an opportunity to increase diversity in the seat of the President of the State Bar to be more reflective of the Bar community at large. The Nominations and Elections Subcommittee has an opportunity each year to actively recruit and solicit applicants for State Bar President-Elect. Though the committee may not select a candidate for consideration who has not consented and agreed to candidacy, this committee, with the assistance of Bar Leadership and Staff, can further ensure the position of President is reflective over time of the State Bar Membership by actively including women and attorneys of color in the candidate pool just as the Bar has taken geographic and city size into consideration. Qualified women and minority attorneys must be sufficiently represented on the committee's prospective candidates list in order to receive an invitation to run for President, advancing the Bar's diversity objectives and mission.
- **Bar Policy 4.01.02** affords an opportunity to increase diversity throughout the State Bar's Standing and Special Committees. The President-Elect is empowered with the ability and responsibility to appoint members to the Bar's Standing and Special Committees, filling the vacancies going into each new Bar year. There are more than twenty (20) Standing Committees spanning the breadth of the bar in interest, practice area, and purpose. Each year the invitation is sent out for attorneys to submit their interest in serving on the Bar's Committees. This is an opportunity to feed the pipeline of leadership with a more concerted effort to identify, recruit, and invite attorneys to serve and diversify these leadership positions and better reflect the population of the Bar to the greatest extent applicants will allow.
- **Bar Policy 4.01.03** affords the President-Elect the opportunity to identify and invite Advisory Members to serve. Recognizing the many needs of the Bar, its Membership and its duties to the public are ever-evolving, the President-Elect should be encouraged to include diverse attorneys in the pool of Advisory Members. The ability to freely select Advisory Members from a larger pool of attorneys which includes those who are also diverse will increase with the Bar's continued commitment to feed the pipeline to leadership with diverse attorneys. The more diverse the engaged population, the greater the likelihood of continued corporate success for the Bar's members and the public it serves.

### **C. Expand Collected Demographic Information**

The Office of Minority Affairs has been the locale of the Bar’s demographic research in addition to its other OMA resources. Demographic information that has been collected and tracked over the years but has not been assessed for updating. For years, there has been discussion about expanding the demographic information the Bar tracks. One such important demographic that has been the topic of discussion has been the inclusion of data on our LGBTQ community. Other demographic information has been proposed and the discussions seem to fall short of real consideration in terms of value and feasibility of data review and collection. As part of the role of this Office and in the interest of moving past just diversity to equity and inclusion, these other demographics should be considered for inclusion in the OMA toolbox of resources made available to the Bar and the public at large.

### **D. Recommendations for Mandatory Annual DEI Training for Officers and Directors**

The Administrative Committee recommends that all Officers and Directors participate in annual DEI Training. This training should be designed and intended to move beyond the fundamentals of what is bias and what is implicit bias but keep in the forefront and assure all participants are working, collaborating, and operating under the same defined terms. Recognizing that the State Bar of Texas does not exist for the purpose of telling individuals what to think or believe but instead is purposed with a direct role in advancing the goals listed above, training in the arena of diversity, equity, and inclusion is vital to the organization’s achievement of its strategic goals and objectives.

## **Potential Projects for Consideration as President-Elect Sylvia Firth’s Presidential Initiatives:**

### **E. Administrative Committee Recommendations**

The State Bar of Texas has made a practice of cyclically reviewing its Strategic Plan. Part of this assessment is the review of sound administration, resources, and financial management. This Subcommittee makes the following recommendations:

- Increased and dedicated staffing to the Office of Minority Affairs is necessary to maintain and grow the programs and initiatives of this office. Staffing has been sustained by floating staff between departments as the need arises to alleviate the stress and strain of the small OMA full-time staff. This is unacceptable in that the dedication of resources, staffing, and funding do not demonstrate the Bar’s articulated commitment to its missions and objectives. The Office is not able to grow in its ability to positively impact diversity, equity, and inclusion for our Bar. There are aspects of equity and inclusion that cannot be targeted or attained with presently dedicated resources.
- A plan for the recruitment and retention of diverse staff in all facets of the Bar’s operations. This should include posting notifications, purposeful outreach to where diverse populations

may be found to be invited to apply, active recruitment efforts in keeping with the goals and priorities of each position for hire, and compensation packages that are in keeping with Bar standards promoting equal pay for equal work.

- An assessment of the Bar's Organizational Structure to determine the appropriateness of certain roles in conformity with the Bar's stated priorities. The organizational structure should consider the hierarchy and placement of its Office of Minority of Affairs within the corporate structure and where its current position is relative to (1) this Bar's priorities and (2) other organizations' offices of diversity, equity, and inclusion or their equity offices.
- Leadership is strongly encouraged to rename this Office so that its title conforms to its mission and charge such as the Office of Diversity, Equity, and Inclusion or the Equity Office.
- Allocation of funding adequate to support a robust staffing and resource dedication for program success and the intended strategic impacts the Bar has indicated it intends to make. To effectuate the change necessary and make the positive impact on Bar operations, Bar membership, the Bar's service to the Public and the Bar's commitment to access to justice on all levels, the Bar must finance its (1) adequate staffing needs, (2) OMA programs and initiatives, which often support other areas of the Bar including Committees and Sections; (3) DEI leadership training, which will improve the work of its attorneys, judges, and support staff; and (4) OMA Communications/Media expenses to revamp and make more accessible OMA resources. This Office needs to be enabled and empowered to execute its charge. In fulfilling the charge of this Office this Subcommittee recommends:
  - o An annual roundtable diversity discussion among 25 largest firms in Texas and 15-25 largest corporations to discuss best practices regarding diversity and inclusion in the legal field. We would suggest a half day (up to a full day if we have enough content to discuss) in Austin at the Bar building
  - o The State Bar should publish a list of mentoring and pipeline programs on their website and consider creating one
  - o The State Bar should encourage each State Bar program of 12 hours or longer to include a diversity segment
  - o The State Bar should create a self-assessment tool available on its website, for law firms and corporation to determine where it stands in terms of diversity, equity, and inclusion
  - o The State Bar should create a diversity committee tasked (or task a currently existing committee) with ongoing development, implementation, monitoring, and assessment of plans, programs, and policies directed at diversity and the recruitment, retention, and promotion of minorities and women
  - o Monthly article on diversity topic in the *Texas Bar Journal*, or Texas Bar Blog

- An expansion of State Bar Policy to mandate the active recruitment of diverse attorneys in the highest levels of Bar Board and Committee service including the position of State Bar President.
- An expansion of the Demographic Information collected and reviewed by the Bar of its Membership to include the LGBTQ community and other information providing a broader scope of information.
- Mandatory Annual DEI Training for Officers and Directors and recurring opportunities to learn about and discuss implicit bias, particularly how it impacts our juries, advocacy, neutrality, work environments, client base, and access to justice.
- Interfaith/multifaith calendars should be reviewed and considered when planning State Bar of Texas events, and meal options should take into account different cultures.
- The Administrative Subcommittee also takes the opportunity here to incorporate the recommendations of the other Subcommittees presented above. Each of these recommendations includes some aspect of administration in its development, implementation, and execution. This Subcommittee would be remiss if it were to fail to recognize that these recommendations will take staffing, money, and other resources to come to fruition.

It is not lost on this Subcommittee that there are only so many resources to go around all aspects of the Bar. And, we recognize that resources can be increased. To the extent an increase in resources is restricted, the reallocation of resources will become necessary. We also acknowledge the prioritization of these recommendations is no small feat. However, we cannot emphasize enough the fact the advancement of long and often overlooked as well as historically postponed strategic plans, corporate objectives and corporate commitments must be permitted. These recommendations as presented by this Task Force are our efforts at moving the needle toward the realization of the Bar community we are aspiring to become.

## EXHIBIT A

### THE TEXAS LAWYER'S CREED A MANDATE FOR PROFESSIONALISM

Promulgated by  
The Supreme Court of Texas and the Court of Criminal Appeals  
November 7, 1989

*I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this creed for no other reason than it is right.*

#### **I. OUR LEGAL SYSTEM**

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, "My word is my bond."
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.
6. I will promote diversity, equity and inclusion in the administration of justice and the practice of law.
7. I will support diversity in the profession, especially the practice of law by members of historically underrepresented groups.
8. I will support legal education opportunities for members of historically underrepresented groups.
9. I will avoid all forms of wrongful discrimination in all of my activities, personally and professionally, including discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status.

#### **II. LAWYER TO CLIENT**

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

1. I will advise my client of the contents of this creed when undertaking representation.

## EXHIBIT A

2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.
3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.
5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.
7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
8. I will advise my client that we will not pursue tactics which are intended primarily for delay.
9. I will advise my client that we will not pursue any course of action which is without merit.
10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.
11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.
12. I will treat adverse parties and witnesses with fairness without regard to race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status.

### III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.
5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.
6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.

## EXHIBIT A

7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.
8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.
9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.
10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.
11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.
12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.
13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.
14. I will not arbitrarily schedule a deposition, court appearance, or hearing until a good faith effort has been made to schedule it by agreement.
15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.
16. I will refrain from excessive and abusive discovery.
17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.
18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.
19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.
20. I will treat opposing counsel with fairness without regard to race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status.

## IV. LAWYER AND JUDGE

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

## EXHIBIT A

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.
  2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.
  3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.
  4. I will be punctual.
  5. I will not engage in any conduct which offends the dignity and decorum of proceedings.
  6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.
  7. I will respect the rulings of the Court.
  8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.
  9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.
  10. I will treat all judges with fairness without regard to race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status.
-

**REPORT OF THE STATE BAR TASK FORCE**  
**ON**  
**HIRING, RETENTION AND PROMOTION**  
**OF MINORITY AND WOMEN ATTORNEYS**  
**IN LARGE AND MEDIUM SIZE LAW FIRMS**  
**AND CORPORATIONS**

**JANUARY 4, 2007**

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**REPORT OF THE STATE BAR TASK FORCE**  
**ON HIRING, RETENTION AND PROMOTION OF MINORITY AND WOMEN**  
**ATTORNEYS IN LARGE AND MEDIUM SIZE LAW FIRMS AND CORPORATIONS**

**INTRODUCTION**

At the request of State Bar Presidents Eduardo Rodriguez and Martha Dickie, a Task Force was appointed in March 2006 to study and make recommendations to the State Bar of Texas for actions to be taken to improve the hiring, retention and promotion of minority and women attorneys in large and mid-size law firms and corporations in the State of Texas.<sup>2</sup> The Task Force engaged in lengthy study and, over the course of several extended meetings, formulated the proposals set forth below. It is the hope of the Task Force that these recommendations will provide a basis for further reflection and analysis by the Board of Directors of the State Bar as well as actions to be taken by that body. Further, because of the immediacy of the issues being addressed, the Task Force believes its report is timely and deserving of prompt attention and action.

The Task Force determined the scope of this project by making two definitional decisions. Mid-size law firms were deemed to be law firms with 50 or more attorneys.<sup>3</sup> (Throughout the report, the reference to law firms will be to Texas law firms that are mid-sized or bigger.) The minority groups that are addressed are racial and ethnic minorities.<sup>4</sup>

**BACKGROUND**

At present there are significant disparities between the percentage of minorities and women in the Texas population at large and the representation of those groups in law firms and corporations. There is also a disparity between (i) the percentage of minorities and women law students and lawyers and (ii) the representation of those groups in law firms (particularly at the partner level) and corporations. Given demographic trends, it is expected that these disparities will only increase if the current law firm and corporation statistics remain static.

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<sup>1</sup> Letter from Eduardo Rodriguez, dated March 9, 2006 appointing the Task Force and setting forth its charge.

<sup>2</sup> The members of the Task Force are Nina Cortell (Chair), Carla Herron (Vice-Chair), Debra Baker, Cynthia Benedict, Caren Blackwell, Mara Asya Blatt, Ophelia Camina, Joe Dilg, Pauline Higgins, Lamont Jefferson, Pat Lochridge, Marcos Ronquillo, Paul Ruiz, Justice Carolyn Wright and Kathleen Wu.

<sup>3</sup> The Task Force acknowledges that, in many Texas cities, firms with fewer than 50 attorneys are considered “large” or “mid-size” and may gain from the proposals urged in this report. That said, the Task Force also recognizes that firms of 50 or more attorneys will have greater resources to devote to certain proposals and assumes that that is the reason the Task Force was charged with focusing its efforts on “mid-size” and “large” firms. In any event, the Task Force notes that much of this report is relevant to law firms of all sizes.

<sup>4</sup> The Task Force recognizes that the term “diversity” is, by definition, broad and encompasses groups other than women and racial/ethnic minorities. Although this Report’s focus is women and racial/ethnic minorities, the Task Force believes that the State Bar and law firms and corporate legal departments should actively seek to encourage and promote diversity in all its forms.

Some specific statistics to consider:

- Only 6% of the partners of Texas's largest law firms are minorities and only 17.6% are women.<sup>5</sup>
- Minorities represent 27% of current enrollment in Texas law schools,<sup>6</sup> but only 11% of Texas's largest law firms.<sup>7</sup>
- Women represent 47% of current enrollment in Texas law schools,<sup>8</sup> but only 30% of Texas's largest law firms.<sup>9</sup>
- The population of the State of Texas is approximately 50% minority and 50% female,<sup>10</sup> and it is predicted that, under a moderate growth scenario, Hispanics will be the largest ethnic group in Texas by 2020 and will constitute over half of the State's population by 2040.<sup>11</sup>

At present there are various ways in which the State Bar addresses diversity issues,<sup>12</sup> but it appears that, historically, there has been little coordination among bar initiatives and there are a number of ways in which the State Bar can increase its visibility and effectiveness in this area. As the State Bar examines actions to be taken and the proposals provided below, it is worthwhile noting that this examination comes at a time when increased diversity is widely seen as an important goal as well as a business imperative. Corporate clients are increasingly taking diversity into account as part of their hiring criteria for law firms, creating a strong business case for increased diversity.<sup>13</sup> It is thus an opportune time for the State Bar to establish new initiatives.

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<sup>5</sup> Jeanne Graham, *Number of Minority, Women Attorneys at Big Texas Firms Static*, Texas Lawyer, July 3, 2006, at 1.

<sup>6</sup> Annual report on the Status of Women and Racial /Ethnic Minorities in the State Bar of Texas (2005-2006); State Bar of Texas, Department of Research and Analysis; May 16, 2006.

<sup>7</sup> See note 5

<sup>8</sup> See note 6.

<sup>9</sup> See note 5.

<sup>10</sup> U.S. Census Bureau, State & County Quick Facts for Texas (2005 estimate).

<sup>11</sup> 2004 methodology for Texas Population Projections, Population Estimates and Projections Program, Texas State Data Center, Office of the State Demographer, Institute for Demographic and Socioeconomic Research, The University of Texas at San Antonio, June 2004, [http://www.utsa.edu/tpepp/2004projections/2004\\_txpoppri\\_txtonum.php](http://www.utsa.edu/tpepp/2004projections/2004_txpoppri_txtonum.php), at p. 13 or 14.

<sup>12</sup> See Appendix A, listing current State Bar diversity-related efforts.

<sup>13</sup> See, e.g., the "Call to Action" for increased diversity in the legal profession, signed by over 100 corporations, including JC Penney, Johnson & Johnson, Shell Oil Company, SBC Communications, Inc., and Starbucks Coffee

## PROPOSALS

### I. Expand the Mission Statement of the State Bar.

In order to send a strong message as to the commitment of the State Bar of Texas to increasing participation in its ranks by women and minority lawyers, the State Bar should consider modifying its Mission Statement to explicitly embrace a statement regarding diversity. The Task Force proposes that the State Bar consider including an additional phrase, such as the one italicized below:

The mission of the State Bar of Texas is to support the administration of the legal system, assure all citizens equal access to justice, foster high standards of ethical conduct for lawyers, support and provide services to its members, enable its members to better serve their clients and the public, educate the public about the rule of law, *and encourage diversity among participants in the administration of justice and the practice of law in Texas.*

Taking this concept one step further, the State Bar should consider issuing a “Call to Action” or a “Commitment Statement” similar to the one being adopted by corporations throughout the United States.<sup>14</sup>

### II. Use of State Bar Programs.

The State Bar can take a direct leadership role in advancing the goal and objective of increased hiring, retention, development and promotion of minorities and women by both providing and encouraging diversity education, plans and programs to the bar membership.

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Company. See <http://www.mcca.com/CTA> and note 14. Also, the Association of Corporate Counsel and the Minority Corporate Counsel Association have endorsed the Call to Action and have instituted programs recognizing excellence in diversity in the legal profession.

<sup>14</sup> See note 13. The “Call to Action” commitment statement reads as follows:

As Chief Legal Officers, we hereby reaffirm our commitment to diversity in the legal profession. Our action is based on the need to enhance opportunity in the legal profession and our recognition that the legal and business interests of our clients require legal representation that reflects the diversity of our employees, customers and the communities where we do business. In furtherance of this renewed commitment, this is intended to be a *Call to Action* for the profession generally, in particular for our law departments, and for the law firms with which our companies do business.

In an effort to realize a truly diverse profession and to promote diversity in law firms, we commit to taking action consistent with the referenced *Call to Action*. To that end, we pledge that we will make decisions regarding which law firms represent our companies based in significant part on the diversity performance of the firms. We intend to look for opportunities for firms we regularly use which positively distinguish themselves in this area. We further intend to end or limit our relationships with firms whose performance consistently evidence a lack of meaningful interest in being diverse.

*Id.*

Knowledge *is* power, and allowing diversity ignorance or apathy is unacceptable. To this end, the Task Force proposes the following measures and programs.

**A. New Diversity Programs.**

1. The State Bar should develop an education program dedicated to law firm and corporate diversity and, specifically, the recruitment, retention, development and promotion of minorities and women.
  - Such a program would present concepts of “best practices” and ideas for sample plans and programs that are recommended to increase diversity and, ultimately, the long-term retention and promotion of minorities and women.
  - The proposed program should include concepts related to success strategies for minorities and women, including education related to unwritten rules allowing attorneys to rise and succeed within law firms and corporations.
  - The proposed program could be developed and utilized in a number of ways. For example, the program could be presented as a stand-alone CLE conference and/or as a DVD or web-based computer presentation with workshop materials for application to one’s own firm or corporation.
2. Sharing ideas, plans, successes and challenges provides a forum where others can learn. For this reason, the Task Force suggests that the State Bar annually host (perhaps in conjunction with *Texas Lawyer*) a roundtable diversity discussion among management representatives from the largest 25 Texas law firms. The program might also include the largest 25 corporate clients in Texas to share their experiences and expectations regarding diversity in the law firms they hire and a discussion of the best practices within the law firms with which they do business.
3. The State Bar should consider establishing a program along the lines of the e-mentoring program that is currently sponsored by the Dallas Bar Association.
4. The State Bar should consider engaging local community and municipality leaders around the State to further diversity goals.

**B. Increased Diversity Education Within Current Framework.**

1. The State Bar should strongly encourage each sanctioned State Bar program (of a specified length) to include a diversity segment.

- Any program offering a least 7.0 CLE credits should be encouraged to include a diversity segment of at least .50 hour, and 1.0 diversity hour for programs of 12.0 CLE hours or more.
  - The qualification for diversity education segments at CLE programs would be broadly defined. For example, programs could include a statistical presentation on minorities and women in the profession, the business case for diversity, diversity awareness, or suggested diversity plans and programs for implementation in the workplace.
2. Much has been accomplished by the State Bar's imposition of an "ethics hours" requirement as part of every attorney's minimum continuing legal education annual requirements. The State Bar could now go further by encouraging a minimum of 1.0 hour of annual diversity training each year as part of every attorney's MCLE. So as not to overburden any practitioner in obtaining this additional hour, the State Bar could encourage CLE planning committees to provide diversity training in a way that would qualify either for the existing 3.0 annual ethics hours requirement or the existing 15.0 hours annual CLE requirement.
  3. Promotion of diversity programs is most effective when acknowledged and valued from "the top down." For this reason, the Task Force recommends that a diversity segment be included at (i) all Bar leadership conference events, (ii) all Texas judicial conferences, and (iii) all State Bar CLE programs.
  4. The TYLA should consider expanding the current 10 Minute Mentor Program to include video presentations on diversity topics of interest to both minorities and women.
  5. Finally, the annual Texas Minority Counsel Program has enjoyed broad-based support. The Task Force strongly believes this program should be both continued and expanded. Specifically, efforts should be explored on how best to increase the exposure to and interaction between corporate sponsors and minority counsel to further develop ongoing working relationships.

### **C. Low Cost CLE.**

The State Bar should provide low cost CLE to inactive attorneys that includes a discussion on re-entry into the profession. The State Bar should consider CLE programs designed to survey the legal developments in certain areas of the law over the past 5 years. This is intended to primarily benefit the many women who drop out of the profession to raise children but who want to maintain their skills and may seek re-entry into the profession.

#### **D. State Bar Sections and Committees.**

1. The task of diversity awareness and implementation of plans and programs is best accomplished by first recognizing that diversity is not a once-a-year subject or periodic “hot topic.” Rather, the ideas and recommendations proposed herein require constant vigilance and oversight. Commitment is key to achieving the results sought and sustaining the achievements realized.
2. There are a number of committees and/or sections of the State Bar whose efforts relate to diversity. (*See Appendix A.*) Those efforts should be coordinated in order to enhance their effectiveness. Also, efforts by local bar associations and the ABA should be monitored and considered as part of the overall diversity effort by attorneys throughout the state. In this regard, it should be noted that some local groups are sponsoring diversity score cards; this data should be monitored and taken into account by the State Bar as it formulates the next steps to be taken.
3. To ensure continuing attention to the diversity objectives discussed herein, the Task Force recommends that the State Bar either (i) establish a diversity committee tasked with ongoing development, implementation, monitoring and assessment of plans, programs and policies directed at diversity and the recruitment, retention and promotion of minorities and women at law firms and corporations, or (ii) task currently existing committees with these responsibilities, perhaps through a joint subcommittee comprised of selected members of the appropriate currently existing committees. If the latter choice is made, the State Bar should consider appointing a point person to coordinate these efforts.

#### **III. Use of the Texas Bar Journal.**

The Task Force has identified the Texas Bar Journal as a recommended vehicle to better communicate to law firms and corporations the State Bar's goals of increasing hiring, retention, and promotion of minorities and women in law firms and corporations. Because the Journal already reaches large numbers of the intended target audience, and is widely read by the very practitioners that the State Bar is trying to better educate on the topic of minority and women advancement, it is ideally suited to facilitate this action plan by the State Bar to increase education on this vital topic. Three initial ways in which the existing infrastructure of the Bar Journal could be utilized to further advance the State Bar's goals on minority and women advancement are identified below.

##### **A. Monthly Column on Diversity Topic.**

The State Bar should commit to the inclusion of a monthly column in the Texas Bar Journal that features a different diversity topic each month. This could work in several ways. One way is to appoint an annual editor or columnist for the diversity page who writes a column

on a diversity topic each month. A variation of this is to appoint an editor who may merely write an introductory "forward" on a topic and then is responsible for coordinating a different person (perhaps a rotating guest columnist) to write a column every month. The State Bar's Office of Minority Affairs could also handle the identification and procurement of finding a monthly columnist each month, if that is preferable. The inclusion of a monthly column would emphasize the State Bar's commitment to this topic, create a forum in which those interested could volunteer to participate by writing or contributing, and would achieve the overall goal of educating law firms and corporations about issues that are critical to a state-wide diversity effort. The column could be used to identify topical articles, studies and surveys that have recently been published and that would be of interest to the readership. If such empirical information is assembled and made available in a single place, it would be easier for law firms and corporations to view the results of what other similarly situated entities have done to address issues relating to diversity within the profession. This in turn would facilitate more dialogue and action.

**B. Monthly Column on Issues of Particular Interest to Women Attorneys.**

Similarly, in addition to, or in combination with, the diversity column, the State Bar could also devote space in the Texas Bar Journal to the companion topic of issues of particular interest to women attorneys. Perhaps the diversity column page and the women attorneys' page could be side by side, so that when the magazine is opened, there is one page on the left and one on the right that emphasizes to the reader that, while these concern somewhat related but different issues, they are equal in importance to the State Bar. Like the suggestions identified above for the monthly diversity topic, the column related to women attorneys could be written by a single columnist or editor appointed on an annual basis (to allow them to develop continuity or a following), or there could be a rotating cast of women whose achievements or advice would be helpful to women attorneys in today's current climate. In addition to providing strategies from personal experience, this column, similar to the monthly diversity column, could identify topical articles, studies and surveys that have recently been published and that would be of interest to the readership.

**C. Develop Topics Such as Mentoring to Enhance Skills, Negotiate Firm/Corporate Politics, Professional Development and Assist with Business Development.**

For either or both of the types of columns discussed above, a critical component of capturing the interest of State Bar readers will certainly depend upon the development of topics that appeal to those who need to be educated and/or speak to those who want to learn more about how to implement programs. Part of the implementation of monthly columns on such topics will include the State Bar's identification and/or ratification of the types of topics that should be addressed and included in the Texas Bar Journal. While this ostensibly might be done by the editorial board, it would also seem appropriate to consider establishing an adjunct diversity editorial board to suggest or vet topics, as well as articles. This would provide additional quality control and ensure that the material is appropriate and helpful, while not being overly critical or potentially negative in outlook. Such a task force or committee could interface with the State Bar's Office of Minority Affairs to coordinate the topics and ensure that the State Bar's goals are being met with regard to the selection of topics and tone of articles.

#### **IV. Use of the State Bar Website.**

##### **A. Special Hyperlink.**

The Task Force believes that the issue of diversity is important enough that it deserves its own separate link on the State Bar of Texas website. The Task Force recommends that a hyperlink entitled “Diversity Services” be added to the State Bar of Texas Home page, with sublinks to the various issues identified in this section. (The proposed “Diversity Services” hyperlink should also have a sublink to the State Bar’s Office of Minority Affairs.)

##### **B. Statement of the Business Case for Diversity**

Corporate America has already discovered the value of diversity. (*See* notes 13-15.) As one legal publication has noted, “As U.S. companies seek to create competitive advantages in a rapidly changing global marketplace, workforce diversity has emerged as one of the primary sources through which a company can gain and sustain a competitive advantage. Today’s discussion has evolved from one of moral imperative and being ‘the right thing to do’ to the business imperative of being the necessary thing to do. Companies that integrate diversity into their business fabric as a core value are positioning themselves to maximize their organization’s potential in the global arena, where diversity of perspectives at every level of an organization is *critical* to success.”<sup>15</sup>

Such companies recognize that diverse organizations are consistently more creative, produce higher quality products, and achieve better results for shareholders. They also understand that their products and services are more appealing to a diverse customer base. Companies such as Shell Oil Company, Wal-Mart, Sara Lee, BellSouth, Bank of America, Marriott International and others have implemented diversity programs within their own organizations. Further, they have also implemented diversity initiatives for their outside law firms as well.

Large and mid-size law firms, as well as corporate legal departments, should understand the business case for diversity. Further, they should understand how their own diversity can help them provide their clients with innovative strategies for solving legal problems.

As a result, the Task Force recommends that the proposed “Diversity Services” hyperlink contain a sublink to the “Business Case for Diversity.” Any discussion of the business case for diversity should include:

1. Materials from CEOs and General Counsel explaining why diversity is important to them.

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<sup>15</sup> Dr. Arin Reeves, “Diversity in Dollars and Sense: CEOs Speak Out on the Business Case for the 21<sup>st</sup> Century,” *Diversity & The Bar*, Nov. 2002, at 9.

2. An explanation of business imperatives for law firms — including forms of corporate scorecards and statistics regarding the high costs of attrition; and
3. A discussion of what it takes to be a great lawyer and an “after the J.D. analysis” showing that law school grades are not the only indicator of success – for all attorneys, not just women and minorities.

**C. Self Assessment Tools.**

The Task Force recommends that the proposed “Diversity Services” hyperlink contain a sublink to “Self-Assessment Tools” consisting of questionnaires and surveys to help a law firm or corporation understand where it stands in terms of diversity. This is important because, before a law firm or corporation can decide its goals for diversity, it must first understand the current state of diversity within the firm or corporation.<sup>16</sup>

**D. How-To Guides for Diversity Initiatives.**

There should also be a sublink to “how-to” guides for diversity initiatives. Such guides should:

1. Provide guidance on how to establish diversity initiatives;
2. Encourage diversity in recruitment staff and attorneys involved in the recruitment process;
3. Encourage mentoring, both formal and informal;
4. Review assessment questions for further ideas;
5. Develop checklists to ensure proper follow-up;
6. Encourage 360 degree reviews (i.e., reviews from bottom to top as well as top to bottom);
7. Establish accountability as a key ingredient;
8. Recognize those members of law firms (e.g., managing partners, key rain-makers, compensation committee members) whose involvement are necessary for organizational change;
9. Provide strategies for effectuating organizational change; and

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<sup>16</sup> See, for example, “A Diversity Self-Assessment Tool for Law Firms,” *Diversity & the Bar* (September/October 2003); *Walking the Talk: Creating a Law Firm Culture Where Women Succeed*, Appendix at 61. Note, however, that copyright issues should be resolved before providing links to articles.

10. Provide special tips for diversity programs.

**E. Model Policies.**

One primary reason cited by women attorneys for leaving law firms is the need to accommodate family obligations. For this reason, the Task Force believes that the proposed “Diversity Services” hyperlink should contain a sublink to “Model Policies” that focus on alternative work schedules and maternity leave. Many large and mid-sized law firms may not offer options allowing women attorneys to work part-time, tele-commute, or return to work after an extended leave. Providing examples of such policies will encourage law firms to consider and implement such policies.

Women of color often report additional issues that relate to the intersection of gender and race. For this reason, the proposed “Diversity Services” hyperlink should also include a sublink to “Model Policies” that focus on issues relating solely to women of color. Here, as elsewhere, the State Bar should refer to work done by the ABA.

**F. Resources for Re-Entry Into the Profession.**

Because attrition in the legal profession is greater among women lawyers, the Task Force believes that the proposed “Diversity Services” hyperlink should have a sublink to “Resources for Re-Entry Into the Profession” to help all lawyers, but particularly women, who have left law firms re-enter the legal profession. Among the items included in this sublink should be:

1. CLE opportunities for inactive attorneys;
2. Job opportunities;
3. Research tools;
4. Survey to determine reasons for departure; and
5. Support for law firms/corporations to provide part-time options, including opportunities to work from home.

**G. FAQ Section of the Website.**

The State Bar should add a bullet point about diversity in the FAQs section of the State Bar website:

**What does the State Bar of Texas do for its members?**

The many services the State Bar provides its members include:

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- Providing resources, programs and ideas to foster diversity in the legal profession.

## **V. Pipeline Initiatives.**

In order to increase the number of minority and women lawyers in law firms and corporations, there must be an ample supply of minority and women lawyers to fill, and be available to fill, employment opportunities and positions. Based on national and State Bar statistics, women comprise over 40% of current law school graduates and, therefore, the issues with respect to increasing the number of women in law firms and corporate law departments focus more on retention and promotion than on the pipeline (although the statistics as to women should continue to be monitored as there may be a current declining trend). While there are similar needs to address retention and promotion of minority lawyers, there is a current, and ongoing, critical need to increase the number of minority attorneys in the educational pipeline leading to the legal profession. Thus, the Task Force's primary pipeline focus is on minority students who are "in the pipeline."

It is the consensus of the Task Force that the State Bar undertake indelible and substantively-enriched programs and meaningful initiatives that will encourage its members to assist in increasing and sustaining the pipeline of minority lawyers who want to engage in the practice of law in Texas. The Task Force believes that these generated programs and initiatives must target all levels of the education pipeline as follows:

### **A. K-12.**

It is viewed, generally, that most successful students develop some ideas and/or aspirations as to their vocational careers somewhat early in their lives. Many are heavily influenced by the careers of parents, relatives, or other role models who they encounter. Due to the relatively small numbers of ethnically-diverse lawyers practicing today, there is an urgent need for all organized Bars to focus efforts on instilling in young minority students the belief that the practice of law can be a rewarding and satisfying career for them. State Bar or local Bar programs should include the identification of lawyers, especially successful minority lawyers, to speak at "career days" and assemblies, judge debate contests, or participate in other meaningful events where career aspirations could be molded (particularly at schools with significant minority enrollments) and where such programs could be beneficial. State Bar produced and sanctioned films, pod casts, or other multimedia presentations regarding the practice of law in which minority attorneys are featured could reach even greater numbers of students. Since students growing up in Texas are more likely to remain in Texas to pursue a career, these efforts should be targeted at Texas schools on a state-wide basis. Notably, the State Bar currently has a pipeline project that has met with great success. This program provides contacts with elementary schools for attorneys willing to present programs at those schools as well as curricular materials for use by these attorneys.<sup>17</sup> Such programs should be expanded.

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<sup>17</sup> This pipeline project as well as various local bar association pipeline activities can be accessed at [http://www.texaslre.org/pipeline\\_intro.html](http://www.texaslre.org/pipeline_intro.html). See also description of pipeline project at Appendix A.

## **B. Undergraduates.**

There are several existing efforts among Texas-based law firms and local bar associations to work with high school administrations in order to identify promising minority high school students who have indicated an interest in practicing law wherein such students are being provided with college scholarships, work opportunities during college in a law firm, or connections to lawyer mentors during undergraduate school. The State Bar could act as a clearinghouse for these types of programs so as to match interested firms or practitioners with colleges and universities that could identify promising students with an interest in law as a career.

Building upon present efforts focusing upon career choice materials<sup>18</sup> and “career day” speakers at Texas community colleges and undergraduate schools, specific efforts should be made to target minority student organizations at Texas undergraduate schools.

In order to ensure that minority students having an interest in the study of law have the fullest opportunity to gain access and achieve their goals, the State Bar should consider working with colleges and universities in the State of Texas to identify minority juniors and seniors who have been successful in their academic endeavors and either provide them, on a need basis, LSAT preparatory course scholarships or match them with lawyers who are willing to provide LSAT preparation and law school application-preparation assistance.

## **C. Law School.**

The State Bar should consider adopting programs and supporting local Bar and private initiatives that are designed to ensure that minority students who are admitted to a Texas-based law schools have every opportunity to become successful law school graduates. Many organizations and local bars have implemented mentoring, tutoring, and internship programs for this purpose and the State Bar could provide an information-gathering and clearinghouse function to ensure that as many students as possible have access to these suggested programs. The Houston Bar’s Minority Opportunities in the Legal Profession (“MOLP”) is one program, among others, that could be reviewed at the outset as a guide in aiding the design of a State Bar program. Further, the State Bar should also encourage its lawyers to participate in such activities, provide connections between lawyers and students, if necessary, and provide some form of incentives to lawyers who make the commitment to serve and help with the furthering of the State Bar’s goals and objectives toward diversity and inclusion in the legal profession.

Studies have indicated that participation in a formal bar review course or access to bar review materials is an important factor in success rates on the Texas Bar Examination and that a lower percentage of minority law students have access to such courses and studies. The State Bar should consider establishing, or working with the Bar Review providers to establish, need-based scholarships for such bar review programs.

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<sup>18</sup> For existing State Bar materials, see [www.texasbar.com-Additional Information for the Public –Becoming a Lawyer](http://www.texasbar.com-Additional Information for the Public –Becoming a Lawyer).

A State Bar website with links to various descriptions of representative “pipeline” projects that could be used as models for local bar or law firm projects would prove very helpful. A link to a similar site established by the ABA is <http://www.abanet.org/op/pipelndir/home.html>.<sup>19</sup>

## **VI. Programming that the State Bar Should Promote Within Law Firms, Corporations and the Bar to Enhance Retention, Development, and Promotion of Women and Minority Attorneys Within Law Firms and Corporations.**

The State Bar should make available to law firms and corporations resources, materials and descriptions of best practices that would allow firms and corporations to evaluate and implement programs to enhance the hiring, retention, development and promotion of women and minorities. One selling point for programs such as those outlined below would be the nexus between such programming and the Call to Action adopted by over 100 corporations. *See* notes 13 - 15 and accompanying text.

### **A. Women Attorney Programming.**

#### Mentoring Programs and Support Networks.

1. *Women’s Groups.* Law firms and corporations should encourage and support the formation of internal women’s groups. These groups can be formal or informal, but should focus on coaching younger women on achievement of goals such as promotion, partnership, and generating business. These groups can meet for brown bag lunches, dinners or other social events, to allow women to get to know their female colleagues and in that process form mentoring relationships. Organizations with small numbers of women should consider collaborating with other such organizations to co-host such functions and events.

2. *Lunch & Learn Programs.* Local bar organizations should provide “lunch & learn” programs to discuss work-life balance, networking, rain-making/business development issues, and the etiquette of dealing with a law firm or corporate employer.<sup>20</sup>

3. *Advisory Boards.* Law firms and corporations should consider the use of “Advisory Boards.” These boards would be comprised of alumni, clients, colleagues and peers who would advise the organization on improving its recruitment and retention of women lawyers and what the organization could do to make its environment more hospitable to women. These boards could also be used as a resource and advisor for the women lawyers when they have questions or other issues they would like addressed by the organization.

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<sup>19</sup> The ABA is an excellent resource generally with respect to diversity initiatives. See <http://www.abanet.org>.

<sup>20</sup> Etiquette topics should include being conscious of how one female attorney’s conduct can affect her future or the future of other women, e.g., how to leave a firm and not burn your bridges or negatively affect the lives of other women by leaving the firm after maternity leave and not paying back the firm.

4. *Women Retreats.* Law firms and corporations should consider the use of retreats for their women. The retreats should be used as an intensive program for rain-making, business development, and balancing issues. The retreats should also be used as an opportunity to discuss how to improve the culture and environment.

5. *Law Schools.* Local bar organizations should provide “real world” seminars at law schools to discuss the pros and cons of different career alternatives in the law, how law firms operate, what it takes to succeed in a law firm environment, and work-life balance issues.

#### Rain-Making Skills.

1. *Training.* Law firms should provide formal education and training for women on developing rain-making and business generation skills. Law firms should also encourage the use of informal training on rain-making through mentoring, or informal discussions at women’s meetings.

2. *Networking.* Law firms should provide women-only networking opportunities for women and should encourage support among women attorneys. Law firms should also encourage networking events between in-house women and the law firm’s women.

3. *Promoting.* Law firms and corporations should promote the achievement of their women lawyers, both internally and externally. These organizations should encourage and promote women for management and leadership roles within the organization.

#### Support for the Needs of Parents.

1. *On-site Child Care.* Law firms and corporations in areas with a high density of lawyers should consider collaborating to provide on-site child care, including weekday evenings and Saturday mornings. These services should also include sick child care.

2. *Concierge Services.* Law firms and corporations should also consider providing concierge services.

#### Flexible Work Options.

1. *Alternative Work Options.* Law firms and corporations should consider offering flexible or alternative work options, including options for part-time partnership. These organizations may also consider offering alternative career paths, including positions akin to law clerks or staff attorneys who are not on a particular promotion track. Key to this consideration is maintaining the integrity of flexibility without jeopardizing respect for the professional.

2. However, before offering such options, there should be a full and frank discussion about the pros and cons of providing such alternative work options. The pros include providing flexibility and increased control over the attorney’s life and increasing retention. The cons include whether these attorneys get treated as “employees of lesser importance,” don’t get plum assignments, or are not considered for partnership or promotion. These discussions should also

include consideration of whether and how an attorney can opt back into a partnership or promotion track.

3. If the organization decides to provide alternative work options, it is recommended that they clearly state their expectations regarding the alternative work arrangement and educate the firm's partnership regarding these expectations.

4. *Home office equipment.* Law firms and corporations should consider providing home office equipment for attorneys with special needs to work from home.

#### Education of Management.

1. Law firms and corporations should provide counseling to its personnel for managing deadlines and being respectful of a lawyer's needs. Examples of these include no false deadlines, scheduling meetings during conventional working hours, and no artificial requirements for Saturday "face time."

2. Law firms and corporations should provide formal training to its administrators, managers and partners on best practices on the retention of women.

#### Self Assessments.

1. *Firm Culture Survey.* Law firms and corporations should do an internal survey to collect data and identify the cultural issues responsible for women dropping out. These surveys can also be used to gain ideas on what changes the organization can make.

2. *Alumni Interviews.* Law firms and corporations should contact female alumni and interview them to determine why they left, whether changes at the firm would have convinced them to stay, and to gather their recommendations on how to make the firm a more hospitable place for women.

3. *Exit Interviews.* Law firms and corporations should interview women lawyers who are voluntarily leaving the organization to determine whether they are leaving the profession, why they are leaving the organization, and whether certain changes would have caused them to stay. These organizations should use the data from the survey and interviews to develop an action plan and design programs to help with retention and re-entry.

#### Re-Entry Into the Profession.

1. *Electronic Job Bank.* The State Bar should provide an electronic job bank where lawyers who have left the profession can post their desire to re-enter the profession; and law firms and corporations can post their desire to hire experienced lawyers including those who have left the profession and desire re-entry.

2. *Alumni events.* Law firms and corporations should keep in touch with alumni who have left the profession. They should host events at which alumni can attend, including in-house CLE programs or social events.

3. *Newsletters.* Law firms and corporations who publish regular newsletters should send the newsletters to alumni.

4. *Announcements of Job openings.* Law firms and corporations should alert alumni about job openings at the firm or corporation.

## **B. Minority Attorney Programming.**

### Mentoring Programs and Support Networks.

1. *Minority Attorney Groups.* Law firms and corporations should encourage and support the formation of internal minority attorney groups. These groups can be formal or informal, but should focus on coaching minority attorneys on achievement of goals such as promotion, partnership, and generating business. These groups can meet for brown bag lunches, dinners or other social events, to allow minority attorneys to get to know their colleagues and in that process form mentoring relationships. Organizations with small numbers of minority attorneys should consider collaborating with other such organizations to co-host such functions and events.

2. *Lunch & Learn Programs.* Local bar organizations should provide “lunch & learn” programs to discuss networking, rain-making/business development issues, and the etiquette of dealing with a law firm or corporate employer.

3. *Advisory Boards.* Law firms and corporations should consider the use of “Advisory Boards.” These boards would be comprised of alumni, clients, colleagues and peers who would advise the organization on improving its recruitment and retention of minority lawyers and what the organization could do to make its environment more hospitable to minority lawyers. These boards could also be used as a resource and advisor for the minority lawyers when they have questions or other issues they would like addressed by the organization.

4. *Retreats.* Law firms and corporations should consider the use of retreats for their minority attorneys. The retreats should be used as an intensive program for rain-making and business development. The retreats should also be used as an opportunity to discuss how to improve the culture and environment.

5. *Law Schools.* Local bar organizations should provide “real world” seminars at law schools to discuss the pros and cons of different career alternatives in the law, how law firms operate, what it takes to succeed in a law firm environment.

### Rain-Making Skills.

1. *Training.* Law firms should provide formal education and training for minority attorneys on developing rain-making and business generation skills. Law firms should also encourage the use of informal training on rain-making through mentoring, or informal discussions at minority attorney meetings.
2. *Networking.* Law firms should provide minority-only networking opportunities for minority attorneys and encourage support among minority attorneys. Law firms should also encourage networking events between in-house minority attorneys and the law firm's minority attorneys.
3. *Promoting.* Law firms and corporations should promote the achievement of their minority lawyers, both internally and externally. These organizations should encourage and promote minority attorneys for management and leadership roles within the organization.

### Education of Management.

1. Law firms and corporations should provide formal training to its administrators, managers and partners on best practices on the retention of minority attorneys.

### Self Assessments.

1. *Firm Culture Survey.* Law firms and corporations should do an internal survey to collect data and identify the cultural issues responsible for minority attorneys dropping out. These surveys can also be used to gain ideas on what changes the organization can make.
2. *Alumni Interviews.* Law firms and corporations should contact minority alumni and interview them to determine why they left, whether changes at the firm would have convinced them to stay, and to gather their recommendations on how to make the firm a more hospitable place for minority attorneys .
3. *Exit Interviews.* Law firms and corporations should interview minority lawyers who are voluntarily leaving the organization to determine whether they are leaving the profession, why they are leaving the organization, and whether certain changes would have caused them to stay. These organizations should use the data from the survey and interviews to develop an action plan and design programs to help with retention and re-entry.

## **VII. Additional Proposals.**

### **A. Market Texas as a Great place for Minorities and Women to Practice Law.**

Historically, there has been a drain of Texas minority and women law students to out-of-state law firms and corporations; this is probably particularly true of minorities. Conversely, Texas law firms and corporations have met hurdles in seeking to recruit minority and women (again, especially minority) law students from out-of-state schools. This appears to be due, at

least in part, to historical negative reputation. The State Bar should, perhaps through the Office of Minority Affairs, consider ways to market Texas to these groups, perhaps through a video or articles, to enlarge the potential female and minority base for law firms and corporations.

**B. Establish an Annual Award for the Law Firm and Corporation That Has Most Excelled That Year in Promoting Diversity.**

The State Bar should consider recognizing excellence in diversity efforts, and thereby enhance them, by establishing an annual award that recognizes and rewards excellence in this area. The award could be presented at the State Bar Annual Meeting or at such other time that maximizes the recognition being given. The award should also be publicized in the Texas Bar Journal. To obtain the award, applicants would be required to provide information on efforts undertaken as well as results achieved.

**C. Recommendation to Related State Bar Sections and Committees.**

The Sections and Committees identified in Appendix A are encouraged to comment upon this report and make further recommendations to the State Bar's Board of Directors. These groups are also encouraged to act upon, expand and implement any of the recommendations they deem appropriate.

**D. Continue Separate Reporting of Statistics as to Minorities and Women.**

Section 81.002(7) of the State Bar Act, Chapter 81 of the Texas Government Code, defines "Minority member" as "a member of the state bar who is female, African-American, Hispanic-American, Native American, or Asian-American." The Task Force notes that, because the State Bar Act includes women and minorities within the term "Minority member," there has in the past been some confusion in reporting and understanding the State's experience with women and minorities. That problem has recently been avoided by separate reporting. The Task Force recommends that the State Bar continue the practice of separately reporting statistics for (i) women and (ii) racial/ethnic minorities.

**CONCLUDING NOTE**

The Task Force considers itself privileged to have been asked to work on, and prepare, this report. The Task Force shares with the State Bar the belief that diversity is a significant issue deserving of attention, study, and action, and is hopeful that this report will help lay the groundwork for further progress in this important area.

## **Appendix A**

### **Current State Bar Diversity Efforts**

Prepared by Caren Blackwell

#### **Programs**

##### **Texas Minority Counsel Program (TMCP)**

The TMCP seeks to expand and increase business opportunities for minority and women attorneys. In its annual conference, TMCP brings together minority and women lawyers from across the state to provide skill development, law firm management techniques, and networking opportunities. Through informational interviews with corporate counsel and government agency representatives, attorneys establish contacts and discuss outside counsel opportunities.

##### **Texas Minority Attorney Program (TMAP)**

The TMAP is a one-day CLE seminar and networking event geared towards minority and women solo and small firm practitioners. Participants have the opportunity to learn more about the issues facing solo and small firms, discuss various client development strategies, and network with area judges and other legal professionals.

##### **Other programming:**

Diversity Forum (at the Annual Meeting)

Minority Leadership Summit

Diversity Summit (at the Bar Leaders Conference)

##### **Pipeline Program**

The Pipeline Project involves an attorney visiting a fourth or fifth grade classroom at least four times per school year to encourage students to achieve educational success as well as introduce them to our legal system and the law. Often times the lack of mentors compounded by a lack of resources keeps children from finishing school, attending college, and seeking a higher level education including a law degree. In particular, at-risk and poor students fail to achieve educational success. The Office of Minority Affairs works in conjunction with Law Related Education to reach out to minority and women attorneys to encourage their involvement in the Pipeline Project.

##### **Committee and Speaker Access Program**

Access is designed to educate and involve minority and women lawyers in the State Bar committee process as well as CLE speaking opportunities. Attorneys interested in participating complete a form that is made available for committee and CLE course instructor appointments.

#### **Committees & Sections**

##### **Racial Diversity in the Profession Committee**

This committee examines the historical and current status of minorities in the profession and makes recommendations on how the Bar can take action to enhance opportunities for minorities in the profession, and increase involvement by minorities in the Bar.

### **Women in the Profession Committee**

This committee assesses the status of women in the legal profession and identifies barriers that prevent women lawyers from advancing in the profession.

### **Minority Sections**

There are five minority sections of the State Bar:

African-American Lawyers Section

American Indian Law Section

Asian Pacific Interest Section

Hispanic Issues Section

Women and the Law Section

### **Publications**

#### **Texas Spectrum Newsletter**

Published bi-annually, the Texas Spectrum is the official newsletter of the Office of Minority Affairs. Articles included in the publication deal with issues that affect minorities and women in the legal profession. The publication's mailing list includes, but is not limited to: all minority attorneys, leaders of minority and women bar associations, State Bar leaders, law schools, and the Supreme Court justices.

#### **Directory of Minority and Women's Bar Associations**

This directory lists local, state and national minority and women's bar associations and their current president. The five minority sections are also included.

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