

# The Commission on Mental and Physical Disability Law



## *GOAL IX REPORT*

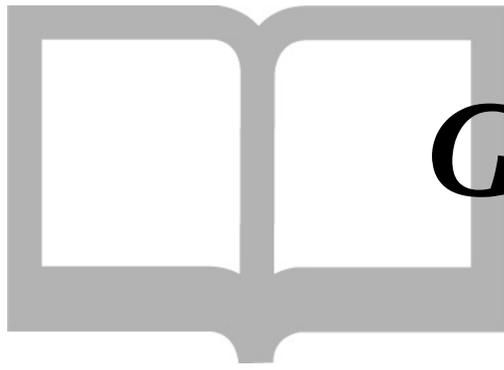
A report on the status of the participation of persons with disabilities in ABA Division, Section, and Forum leadership positions



**Commission on  
Mental and Physical  
Disability Law**



**2008**



# GOAL IX

*About the American Bar Association, the Commission on Mental and Physical Disability Law, and Goal IX*

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The American Bar Association (ABA) was founded in 1878 by 100 lawyers from 21 states. The ABA has over 413,000 members, which makes it the largest voluntary professional association in the world. The ABA provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges, and initiatives to improve the legal system for the public. The ABA's primary mission is "to be the national representative of the legal profession, serving the public and the profession by promoting justice, professional excellence and respect for the law." One of the ABA's central goals, Goal IX, is "to promote full and equal participation in the legal profession by minorities, women and lawyers with disabilities." In 1999, the ABA House of Delegates voted to expand Goal IX to include persons with disabilities along with women and minorities. In 2007, the ABA House of Delegates further expanded Goal IX to include persons with "differing sexual orientations and gender identities."

Stemming from the ABA's long history of promoting reform of the justice system, in 1973, the ABA established the Commission on the Mentally Disabled to focus on the advocacy needs of people with mental disabilities. After the passage of the Americans with Disabilities Act of 1990, the Commission broadened its mission to serve all people with disabilities and therefore changed its name to the Commission on Mental & Physical Disability Law (Commission). The Commission's mission is to "promote the ABA's commitment to justice and the rule of law for persons with mental, physical, and sensory disabilities and their full and equal participation in the legal profession."

The Commission is composed of lawyers and other legal professionals, many of whom have disabilities. The Commission's Subcommittee on Lawyers with Disabilities focuses on issues of importance to those who may have a disability in the legal community. The Commission's Subcommittee on the Employment of Lawyers with Disabilities provides greater emphasis on employment related issues. The Commission also has a Goal IX Report Subcommittee whose duties include the preparation and publication of this report. Through these subcommittees and other programs, the Commission is the only entity within the ABA, and the legal profession, that has a comprehensive focus on all lawyers with disabilities on a national level.

## I. INTRODUCTION

The 2007-2008 Commission on Mental and Physical Disability Law's *Goal IX Report* presents the Commission's findings from the Goal IX survey, a questionnaire on lawyers with disabilities in ABA leadership positions during the 2007-2008 bar year. Throughout the *Report*, are trends and statistics that indicate how and to what degree lawyers with disabilities have been integrated into ABA leadership positions. This *Report* also contains information on the ABA's efforts to reach out to lawyers with disabilities.

The Goal IX survey gathers information about the participation of persons with disabilities, as well as women and racial minorities in ABA Division, Section, and Forum leadership positions. The survey will be expanded next year to include those with differing sexual orientations. Other entities, such as Commissions, participate if they perform Continuing Legal Education programming. The 2007-2008 *Goal IX Report* presents the findings of the survey with respect to lawyers with disabilities, along with conclusions and recommendations. In the *Report*, the Commission recognizes those ABA entities that have demonstrated the ABA's commitment to lawyers with disabilities, by including them on an annual "Honor Roll." In addition, the *Report* includes an update on the status of lawyers with disabilities in the legal profession, information about the Commission's publications and special projects, and introduces you to the Commission's members, many of whom are themselves lawyers with disabilities.

In the summer of 2004, the ABA President's Office modified the appointment process to ensure that applications for presidential appointments include a question regarding disability status. For 2007-2008, there are an estimated 705 presidential appointments, 13 of which went to persons whom were identified as having a disability; six lawyers with disabilities were appointed in 2006-2007. The current numbers indicate a 1 percentage point increase of those with disabilities who are appointed by the ABA President from last year. In addition, there are 40 ABA members who serve on the Board of Governors, the executive arm of the ABA, none of whom identified as having a disability. Currently, the ABA has 554 ABA members that serve in the House of Delegates, the ABA's policy-making body, but the ABA does not maintain statistics on

the number of lawyers with disabilities who are members of the House of Delegates. It is important to note that attaining a definite figure of lawyers with disabilities is difficult. Concerns over confidentiality for those with hidden disabilities, the presence of those who do not consider the effects of aging to be a disability, and the fact that a sizable percentage of law school graduates with disabilities do not find employment as lawyers all inhibit accurate data collection.

## **II. THE STATUS OF LAWYERS WITH DISABILITIES**

This section of the *Goal IX Report* examines the current estimated populations of Americans with disabilities, those employed with disabilities, and disabled individuals in the legal profession by using U.S. Census data of persons with disabilities, and various statistics provided by the ABA and other sources.

### **People with Disabilities in the United States**

According to the most recent published U.S. Census data in 2000, there are 49.7 million people, ages five and older, in the United States with a disability. This represents nearly one in five (19.3% of 257.2 million) U.S. residents. The decennial Census found that 9.3 million people have sensory disabilities involving sight or hearing, and 21.2 million more have a condition limiting basic physical activities such as walking, climbing stairs, reaching, lifting, or carrying. The Census also revealed 12.4 million people with a physical, mental, or emotional condition that caused difficulty in learning, remembering, or concentrating. In addition, 6.8 million people with physical, mental, or emotional conditions had difficulty dressing, bathing, or getting around inside the home. The Census indicated that 18.2 million people aged 16 and older had a condition that made it difficult to go outside the home to shop or visit a doctor. Finally, 21.3 million of those aged 16 to 64 had a condition that affected their ability to work at a job or business.

Also, the 2005 U.S. Census Bureau's American Community Survey (ACS), an interim assessment of the American population, estimates that for people between the ages of 18 and 34 who are enrolled in school (i.e., less than a high school graduate through post-graduate studies), only 6% have a disability; moreover, concerning higher education (i.e., schooling necessary to attain a law degree) only 0.9% of those enrolled in school, who are seeking a Bachelor's degree or higher, have a disability. The number increases to 2.6% when including those who are disabled and once attended school, but not enrolled in school at the time of the survey.

### **People with Disabilities in the Workplace**

According to the 2004 National Organization on Disability/Harris Survey of Americans with Disabilities, only 35% of people with disabilities report being employed

full or part-time, compared to 78% of people who do not have disabilities. Also, individuals with disabilities are three times more likely to live in poverty than those individuals who do not have disabilities.

Working with the ACS numbers, Cornell University reports that only 22.6% of those who are of working age with a disability are working full-time. Moreover, median annual salaries for full-time workers are 17% less if the employee has a disability. The ACS survey also reveals that 62% of those with disabilities in the 16 to 64 year old age group are not employed. Cornell University reports that 12.8% of those who are able to work and have a disability have a Bachelor's degree or higher.

Finally, the National Council on Disability (NCD), in an October 2007 report, stated that two thirds of those who are disabled without a job would prefer to be employed. As outlined by the NCD, employment for disabled Americans is important for their economic, social, and psychological well-being.

### **Lawyers with Disabilities in the Legal Profession**

The ABA estimates the number of lawyer members who self-identify as having a disability based on its annual census. According to the 2007 census, 14,242 of 410,182 ABA members completed the census questionnaire. Of the 11,784 respondents who answered the query "Do you have a disability?" only 833 (or 7% of ABA membership) indicated that they have a disability, which is far lower than one would expect given the national statistics on the percentage of Americans with disabilities. This figure represents a 2 percentage point increase from 2006. If extrapolated to the entire ABA membership, approximately 28,700 members would report as to have a disability for 2007. Nonetheless, the Commission believes this number may be substantially less than the actual number of lawyers with disabilities in the ABA. As noted earlier, many lawyers with disabilities may choose not to answer the question relating to disability status due to confidentiality concerns, while others do not consider themselves as having a disability. Nonetheless, this low figure reflects at least three trends: (1) relatively few college students with disabilities attend law school, and not everyone who attends graduates or passes the bar, (2) due to socioeconomic factors, it appears that a lower percentage of lawyers with disabilities join the ABA than non-disabled lawyers, and (3) a greater percentage of law school graduates with disabilities do not find employment as lawyers.

For 2007-2008, the ABA Office of Legal Education and Admissions to the Bar indicated that of 149,745 law students in ABA-accredited law schools, 4,229 (2.82%) were provided accommodations—up from 2.47% for 2005-2006 and 2.56% for 2006-2007. In the past few years, there has been a slow but steady increase in the percentage of law students who request accommodations.

Lack of employment for lawyers with disabilities is reflected in national statistics. The statistics indicate that lawyers with disabilities are employed at a lower percent-

age than are non-disabled lawyers and lawyers who are racial/ethnic minorities. The National Association of Law Placement (NALP) reported in its study, *Jobs & J.D.'s*:

**Law Students with Disabilities Who Were Provided Accommodations**

YEARS	LSD*/ABA**	PERCENT
2007-2008	4,229/149,745	2.82%
2006-2007	3,803/148,697	2.56%
2005-2006	3,464/140,376	2.47%

\* # of law students with disabilities who were provided accommodations  
 \*\* # of law students in ABA-accredited law schools

*Employment and Salaries of New Law Graduates—Class of 2006*, that 81.1% of law graduates with disabilities were employed, compared to about 90% of all non-minority law graduates and 87.6% of all minority law graduates. 4.5% of law graduates with disabilities indicated that they were unemployed and seeking a job, compared to about 2.7% of all non-minority law graduates and 3.1% of all minority law graduates. Those graduates with disabilities had a mean salary of \$66,049 and a median salary of \$55,750 compared to around \$77,939 and \$62,500, respectively, for graduates as a whole. The report concluded that “disabled graduates were less likely to obtain jobs in private practice than the class as a whole—and more likely to obtain government and public interest positions”—a trend evident for the past several years.

**Disability Diversity in the Legal Profession**

ABA President William H. Neukom, in his *ABA Journal's* President’s Message of November 2007, drew attention to the need for lawyers to work together in order to fight discrimination in the legal profession. President Neukom recognized that although it is difficult to determine the exact degree that disabled community is under-represented in the legal community, it is evident that “[l]awyers with disabilities, too, have greater difficulty getting a job after law school and have higher rates of unemployment than lawyers who do not have disabilities.” President Nuekom calls on the legal profession to embrace the objectives of Goal IX in order to root out invidious discrimination. This *Goal IX Report* identifies the ABA’s efforts to mitigate the exclusion of those with disabilities from the legal profession.

**III. SURVEY METHODOLOGY**

Annually surveying ABA Divisions, Sections, and Forums requires a collaborative effort between the Commissions on Mental and Physical Disability Law, Racial and Ethnic Diversity in the Profession, and Women in the Profession. The 2007-2008 survey is completed as a

workbook in Microsoft Excel. Each commission drafts its own questions and its own Goal IX report. In many respects, however, the questions asked and the data sought are similar for all three groups. The accuracy of the data depends in large measure on the staff who are designated to report the data for their particular entity.

The Commission on Mental and Physical Disability Law recognizes the inherent difficulties associated with collecting data on the numbers of lawyers with disabilities. Many types of disabilities, such as learning disabilities, may not be obvious. Also, respondents may not understand what constitutes a disability. As a result, the Commission defined “disability” as “[a] significant mental, sensory, or physical impairment or condition such as epilepsy, muscular dystrophy, multiple sclerosis, mental illnesses, dementia, learning disabilities, AIDS, cancer, diabetes, heart disease, stroke, blindness and other visual impairments, deafness and other hearing impairments, and alcoholism.” In addition, the Commission instructed staff directors that disability status may be inferred from members’ self-identifications and direct observation.

**IV. FINDINGS**

There are different entities within the ABA which took Goal IX survey, namely Divisions, Sections, and Forums. ABA Divisions are centered around different groups of professionals in the legal community. Additionally, they differ from Sections in their internal governing structure in that they usually have boards of governors. ABA Sections draw their membership from lawyers or judges with common professional interests, and operate much like independent bar associations with their own officers, dues, committees, and programming. They typically represent a substantive area of the law through their more than 3,700 committees and their publications. Sections, with officers and council members as leaders, contribute to policy-making, both in their particular subject areas and association-wide. ABA Forums are open to membership, as long as one is a member of an ABA Section or Division. The Forums explore and monitor new areas of the law as they develop.

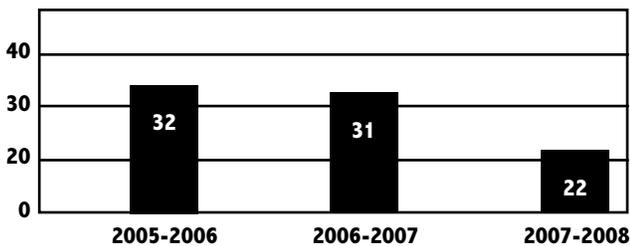
Other ABA entities, which did not participate in the general survey, did provide information about their CLE programs. This would include Commissions, Standing Committees, and Task Forces. All of these entities are both advisory and policy-implementing entities for specific areas and causes related to the legal profession and have a relatively small number of members. This Commission, for example, has 15 members.

**ABA Leaders with Disabilities**

For 2007-2008, only 22 of about 11,000 ABA leadership positions were held by lawyers identified as having disabilities—a significant decrease from 31 for 2006-2007 and 32 for 2005-2006. As previously noted, estimates show there are approximately 28,700 members

who self-identify as having a disability. Yet only 12 of 44 ABA entities surveyed had a member with a disability on their leadership team: Section of Administrative Law and Regulatory Practice; Forum Committee on Affordable Housing and Community Development Law; Criminal Justice Section; Section of Environment, Energy, and Resources; Government and Public Sector Lawyers Division; General Practice, Solo and Small Firm Division; Section of Individual Rights and Responsibilities; Section of Labor and Employment Law; Section of Public Contract Law; Senior Lawyers Division; Section of Taxation; and Tort Trial and Insurance Practice Section. This number is up from 11 in 2006-2007. Thirty-two surveyed entities reported having no lawyers with disabilities in their leadership. The entity with the most lawyers with disabilities in its leadership was Tort Trial and Insurance Practice Section with 5. The Section has 35,402 members.

**Number of Leadership Positions Held by Lawyers with Disabilities**

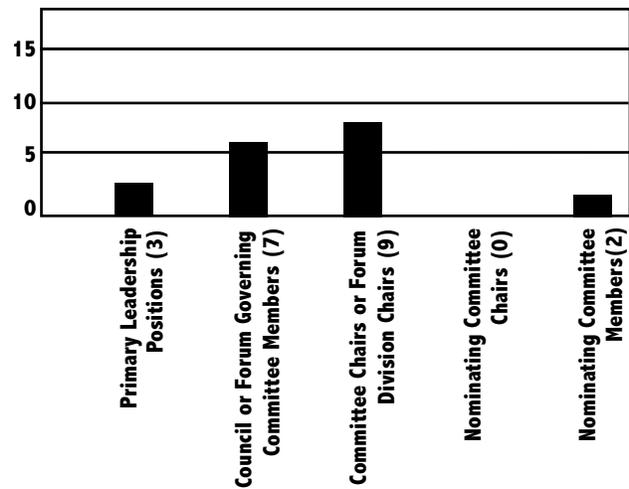


**Primary & Committee Leadership**

Primary leadership positions (Section officers or Forum Chairs, Chairs-Elect, Immediate Past Chairs, and appointed leadership) are considered the most influential within the Divisions, Forums, and Sections. For 2007-2008, only 3 lawyers with disabilities held primary leadership positions—down considerably from the past few years (8 in 2006-2007 and 14 for 2005-2006). The Government and Public Sector Lawyers Division, Section of Taxation, and Tort Trial and Insurance Practice Section all had one primary leader with a disability. The involvement by lawyers with disabilities with these three entities demonstrates the entities’ commitment to the full and equal participation of lawyers with disabilities in the legal profession. Yet, the comparatively large drop in primary leaders with disabilities is of concern; for the past three years, the number of primary leaders with disabilities has dropped significantly.

For 2007-2008, 8 lawyers with disabilities held Committee Chair positions, compared to 12 in 2006-2007 and 9 in 2005-2006. Only 10 of 34 entities reported having committee positions held by lawyers with disabilities: Section of Administrative Law and Regulatory Practice; Criminal Justice Section; Section of Environment, Energy, and Resources; General Practice, Solo and Small Firm Division; Section of Labor and Employment Law; Section of Public Contract Law; and Tort Trial and Insurance Practice Section.

**Leadership Positions Held by Lawyers with Disabilities**

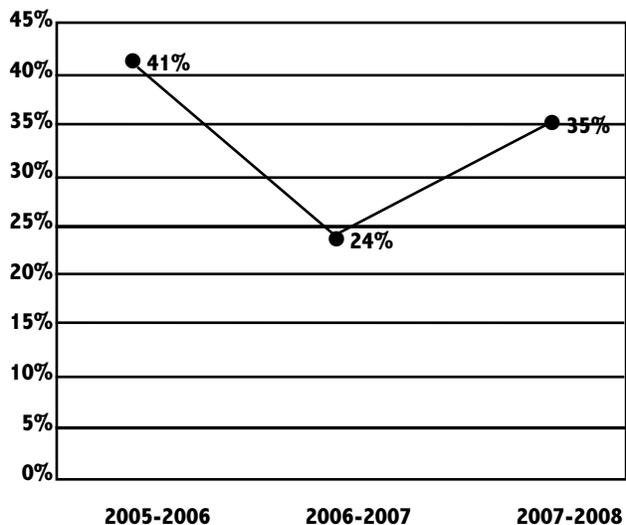


**CLE Programming**

ABA entities, in carrying out their programming, hold Continuing Legal Education (CLE) programs. Each ABA entity chooses their faculty in the appropriate fields for the CLE program. The number of faculty with disabilities for CLE programs has seen a great increase in the past year. For 2007-2008, 27 presenters at ABA CLE programs were identified as having a disability. For 2006-2007 the number was 3 and for 2005-2006 it was 5. Moreover, the amount of entities that have had faculty with disabilities has doubled in the past year from three to six. The Commission notes that in 1992, the ABA House of Delegates resolved that each ABA entity that provides CLE programming must provide an annual report to the Standing Committee on Continuing Legal Education in its effort to ensure a diverse CLE faculty. The six entities that have included lawyers with disabilities in CLE programming were: Section of Business Law; Commission on Domestic Violence; Government and Public Sector Lawyers Division; Section of Public Contract Law; Section of Real Property, Trust and Estate Law; and Section of Taxation.

The Commission held one CLE program during the previous year, at the 2007 ABA Annual Meeting in San Francisco, entitled “Addressing the Needs of Children and Adults with Disabilities who Become Victims of Abuse and Other Crimes.” The following ABA entities cosponsored this event: Criminal Justice Section; Young Lawyers Division Children and the Law; Commission on Domestic Violence; General Practice, Solo and Small Firm Division; Government and Public Sector Lawyers Division; Section of Individual Rights and Responsibilities; Standing Committee on Pro Bono and Public Service; Standing Committee on Public Education; Senior Lawyers Division; Section of State and Local Government Law; and Young Lawyers Division.

**3-Year Trend: Percentage of Entities with Lawyers with Disabilities**



**V. HONOR ROLL**

In order to be placed on the Commission on Mental and Physical Disability Law’s “Honor Role” an entity must either: (1) have more than 1 lawyer with a disability in a leadership position (i.e., primary entity leader or committee chair); (2) have at least 5% of their committee population (i.e., governing committee or nominating committee) consist of lawyers with disabilities, or; (3) have at least 5 CLE faculty with a disability. In addition, an entity must demonstrate a concerted effort to include lawyers with disabilities in entity activities. Only Divisions, Sections, and Forums are eligible.

Several entities made especially noteworthy efforts to attract and include lawyers with disabilities. In order to applaud the efforts of those entities that have performed exceptionally well in “promot[ing] full and equal participation in the legal profession by . . . lawyers with disabilities,” the Commission has given “Highest Honors” to the top three ABA entities.

By recognizing all of these entities, the Commission hopes to encourage their efforts to expand their recruitment initiatives aimed at lawyers with disabilities and, thus, serve as role models for other ABA entities. For 2007-2008, the following 10 entities have achieved “Highest Honors” and “Honor Roll” status. The listings are in alphabetical order by group :

**Highest Honors**

**Section of Business Law**

The Section of Business Law is a leading example of how an ABA entity should plan and execute programs and activities to incorporate lawyers with disabilities into the profession. The Section has a Committee on Meetings which screens its entire faculty to ensure diversity. The Section also communicates to its faculty (last

year totaling over 1,000) that they should not use language that disparages an individual because of his or her disability. Business Law also has a Diplomat Program that selects one lawyer with a disability to raise awareness of disability-related topics within the Section, offer suggestions regarding disability-related issues, and offers the chance to speak at Section events. This Program is one-of-a-kind within the ABA and shows how ABA members can be directly involved with ABA entities to make a difference.

General procedures within the Section ensure that diversity is achieved. For example, the Section annually reviews its diversity efforts to make sure that diversity is advanced in the legal profession. It also makes sure to advertise all of its diversity programs to its members with an “involvement guide.”

**Section of Individual Rights and Responsibilities**

The Section of Individual Rights and Responsibilities (IR&R), which has a Committee on the Rights of Persons with Disabilities, has played an instrumental part in promoting the inclusion of lawyers with disabilities into the profession. In late 2006, IR&R initiated the founding of the National Association of Law Students with Disabilities (NALSWD). NALSWD is a national organization of over 50 law students with disabilities and has a national executive board. IR&R has dedicated funding to NALSWD. In addition, IR&R, along with the Commission, has helped provide support for the NALSWD by offering guidance and resources to this newly created entity. It is important to note that the NALSWD is not affiliated with the ABA, thus demonstrating the additional dedication necessary by IR&R. Regarding membership, IR&R has made a point of actively recruiting law students with disabilities, along with NALSWD, as to increase the employment and retention of law students with disabilities. The relationship with NALSWD has enabled IR&R to recruit lawyers with disabilities into its membership.

IR&R has one governing council member with a disability out of 21 (or 5%). IR&R also provides services at its events for those with auditory, sensory, visual and physical impairments, such as Communication Access Realtime Translation (CART) services, accessible transportation options, and written transcripts.

**Tort, Trial and Insurance Practice Section**

Tort, Trial and Insurance Practice Section (TIPS) has demonstrated its commitment to including disabled lawyers via its statistics of leaders with disabilities. TIPS has the highest percentage of any ABA entity for primary leadership with a disability, 17% (1 of 5). Out of the six possible categories designated to measure participation of lawyers with disabilities in entity leadership, TIPS has a lawyer with a disability in four of them. Also of note, TIPS has the highest percentage of any ABA entity for representation of those with disabilities on its nominating committee at 8% (2 of 23). TIPS also has a lawyer with a disability on its governing committee and a lawyer with a disability who is a committee chair.

## **Honor Roll**

### ***Forum on Affordable Housing and Community Development Law***

The Forum has 6% of its governing committee (1 of 16) with a disability. They also had one event speaker who was legally blind and another speaker who uses a wheelchair.

### ***General Practice, Solo and Small Firm Division***

This Division has one of its 20 (5%) governing council members with a disability; they accommodate this committee member by providing Braille. It also has one chairperson who has a disability. The Division has made pro-active efforts to ensure that its website is more accessible for those with vision impairments. The Division co-sponsored the Commission's CLE program at the ABA 2007 Annual Meeting.

### ***Government and Public Sector Lawyers Division***

The Government and Public Lawyers Division put on another strong showing for the 2007-2008 year. One of its 6 primary leadership positions is filled with a lawyer with a disability and one of its governing committee members has a disability. One of its 25 CLE faculty (or 4%) has a disability. The Division co-sponsored the Commission's CLE program at the ABA 2007 Annual Meeting.

### ***Section of Labor and Employment Law***

The Section of Labor and Employment Law has one committee chair with a disability. In its long range goals and action plan, the Section has made an applaudable effort to include the recruitment, retention, and cooperation of lawyers with disabilities in its ranks.

### ***Law Student Division***

In addition to providing its event attendees with proper accommodations, the Law Student Division has specifically included law students with disabilities into its long range goals and action plan. Such inclusion involves including law students with disabilities in its appointments process, conferences and circuit meetings, and community outreach.

### ***Senior Lawyers Division***

The Senior Lawyers Division has 6% of its governing committee (1 of 16) with a disability. Noting that most of its members are over 70, and thus more likely to have a disability due to their age, the Division always takes the physical limitations of its members into consideration. Examples include supplementary transportation options for the physically disabled or auditory auxiliary aids.

### ***Section of Taxation***

One of the 10 primary leaders for the Section of Taxation is a lawyer with a disability. The Taxation Section also has one of its 24 governing committee members with a disability. The Section had the highest number of faculty with disabilities, 15.

## VI. CONCLUSION AND RECOMMENDATIONS

For 2007-2008, the Commission reported a significant decrease in the number of ABA Division, Section, and Forum leadership positions held by lawyers with disabilities from 31 to 22. Additionally, the percentage of leadership positions held by lawyers with disabilities drastically decreased this year and the number of primary leaders with disabilities is half of the amount from last year. Furthermore, after eight years of having Goal IX specifically cover lawyers with disabilities, some ABA entities still have not yet incorporated lawyers with disabilities into their diversity statements, action plans, and goals. These results are cause for concern particularly given the fact that there are an estimated 28,713 members who self-identify as having a disability within the ABA.

Part of the problem is that the percentage of lawyers with disabilities remains quite low as compared to the percentage of persons with disabilities generally. Relatively few people with disabilities enter, and thus graduate from, law school. Therefore, increasing the number of persons with disabilities who attend law school should be part of any comprehensive solution to the problem of under-representation of individuals with disabilities in the legal profession. The Commission along with the ABA's Section of Individual Rights and Responsibilities and the National Association of Law Students with Disabilities are working together to make sure those with disabilities can enter and remain in law school.

Since Goal IX was amended in 1999 to include lawyers with disabilities, the Commission has strived through its programs, projects, and publications to serve as a role model to all ABA entities and the legal profession by fully manifesting the ABA's Goal IX policy. Over time, the Commission has seen increases in the number of leadership positions held by lawyers with disabilities and of ABA entities that include lawyers with disabilities in leadership positions and specifically include lawyers with disabilities in their diversity statements, goals, and action plans; however, this year has seen a noticeable decline in numbers for several key categories.

The Commission is appreciative of the ABA for supporting the rights of persons with disabilities in the legal profession, as demonstrated by the ABA's Goal IX policy "to promote full and equal participation in the legal profession by minorities, women, and lawyers with disabilities." The Commission particularly applauds the efforts of ABA Past President Michael S. Greco and ABA President William H. Neukom to increase the amount of lawyers with disabilities by making such an increase a priority during their time as president. During his presidency, Michael S. Greco, in May 2006, hosted the first ever "National Conference on the Employment of Lawyers with Disabilities," which was cosponsored by the Commission, the Office of the President, and the U.S. Equal Employment Opportunity Commission. Also, as President-Elect, Greco ensured that the President's Office revised the nomination form for presidential

appointments to include a question about whether nominees have a disability. President Neukom has made it a point to make sure lawyers come together to end discrimination within the profession. He has made it clear that Goal IX entities, such as the Commission will be utilized "to combat discrimination for the greater good." Finally, the ABA entities recognized in this *Report* are excellent examples for all in the ABA to follow in order to fulfill the objectives outlined in Goal IX, particularly those entities who have been awarded "High Honors."

Nonetheless, overall progress within the ABA has been relatively slow as compared to minorities and women. The Commission is concerned that several critical indicators of the involvement of lawyers with disabilities within the ABA have decreased within the past year. These indicators, as shown above, come from this report and the assessments of other organizations. Much work remains to be done. As Past President Greco, noted:

If lawyers with disabilities are not provided with the opportunity not only to serve on a committee but to chair a committee, their abilities are not going to shine . . . Advancement in the ABA and advancement in the profession have to begin with appointment to leadership positions.

In light of this challenge, the Commission makes the following recommendations, some of which have been stressed in previous Goal IX reports:

1. The ABA is encouraged to continue to develop better ways to identify and track the number and progress of lawyers with disabilities within the ABA and all of its entities.
3. ABA entities are encouraged to actively recruit and include lawyers with disabilities in leadership positions in Divisions, Sections, and Forums. Efforts for recruitment might include reaching out to law students to inform them at the beginning of their careers about entity activities and creating specific networking opportunities for lawyers with disabilities at Annual and Mid-Year meetings as well as CLEs.
4. In carrying out Goal IX, ABA entities are encouraged to maintain long-range diversity goals and plans that specifically include lawyers with disabilities, to update these plans on a regular basis, and to include lawyers with disabilities in their formation and review.
5. ABA entities are encouraged to support the Commission's Mentor Program (see below) in order to promote participation from both lawyers and law students with disabilities.
6. ABA entities are encouraged to use the Commission's

resources in identifying speakers and participants in their programs, projects, and activities.

7. ABA entities are encouraged to invite members of the Commission to speak at their directors meetings, committee meetings and meetings open to members to inform their respective entities about Goal IX, Commission programs, and Commission efforts to increase ABA membership.
8. ABA entities are encouraged to include lawyers with disabilities as speakers and panelists for their Annual and Mid-Year Meetings, programs, and CLEs.
9. ABA entities are encouraged to include lawyers with disabilities as authors in their publications and to promote the writing of articles about lawyers with disabilities or issues that might be particularly pertinent to their group.
10. ABA entities are encouraged to provide funding to lawyers with disabilities to attend Annual, Mid-Year, and Committee meetings, perhaps through the use of a fellowship program, in order to increase exposure to ABA activities.
11. The ABA is encouraged to take steps to implement within the ABA the website accessibility resolution passed by the House of Delegates at the 2007 Annual Meeting. Several ABA entities expressed in their surveys that they do not know whether their website is accessible and, moreover, believe it is the responsibility of the ABA, as a whole, to make sure its website is accessible.
12. ABA entities are encouraged to keep track of who in their membership has a disability in a manner that is not intrusive but still allows for a reasonably accurate account.

## **VII. COMMISSION ON MENTAL AND PHYSICAL DISABILITY**

### **Law Projects**

#### ***Awards Ceremony and Reception***

Each year, the Commission sponsors an award ceremony to honor the recipient of the Paul G. Hearne Award, and a reception for lawyers with disabilities. The reception is held during the ABA Annual Meeting and is attended by ABA leaders, lawyers with disabilities, and other disability rights lawyers and advocates. The 2007 reception was held during the Annual Meeting in San Francisco, CA.

#### ***Commission Co-Sponsorship of Amicus Briefs***

The Commission co-sponsors other ABA entities, such as the Section on Individual Rights and Responsibilities, in amicus briefs in cases involving substantive areas of dis-

ability law and disability rights. In 2003, the Commission joined IR&R in successfully recommending that the ABA submit an amicus brief to the U.S. Supreme Court in *Tennessee v. Lane* (2004). The ABA brief urged the Supreme Court to uphold the Americans with Disabilities Act Title II against claims that it unconstitutionally impinges the states sovereign immunity rights under the Eleventh Amendment of the U.S. Constitution. The Supreme Court ultimately ruled in favor of this recommendation.

The Commission also co-sponsored an amicus brief to the Supreme Court in *United States v. Georgia* (2006) urging the Supreme Court to find a private right of action against the state for monetary damages under ADA Title II for violating rights covered by the Fourteenth Amendment of the U.S. Constitution. The Court ruled in favor of this interpretation.

Finally, the Commission co-sponsored an amicus brief to the Supreme Court last year in the case of *Panetti v. Quaterman*. The ABA urged the Court to rule that a delusional individual who is to be executed must have the capacity to be aware that he is being punished because of his criminal actions, and the Court agreed with this position.

#### ***Mentor Program for Law Students with Disabilities***

Since 2000, the Program has been pairing law students with disabilities with practicing attorneys (who may or may not have disabilities) based on mentees' preferences. Mentors can provide a source of guidance concerning law school, careers, and issues such as reasonable accommodations. The Commission works directly with individual law schools and welcomes students from around the country to contact the Commission directly if they are interested in being paired with mentors.

#### ***The Paul G. Hearne Award for Disability Rights***

Each year, this Award is given to an individual who or organization that has performed exemplary service in furthering the rights, dignity, and access to justice for people with disabilities. Paul G. Hearne was an activist, a philanthropist, and a leader for all persons with disabilities. The Commission awards the honor to one who carries on Hearne's vision and life work. The 2007 Award recipient was Laura Cooper Fenimore, a private practitioner who specializes in long-term planning and insurance matters for people with chronic illnesses.

#### ***Subcommittee on Employment of Lawyers with Disabilities***

This Subcommittee addresses issues related to attaining, employing, and retaining lawyers with disabilities. The Subcommittee worked in conjunction with the U.S. Equal Employment Opportunity Commission (EEOC) to host the ABA National Conference on the Employment of Lawyers with Disabilities in 2006. This event was hosted by then-ABA President Michael S. Greco and co-sponsored by other national disability organizations. The Conference

focused on what employers can do to increase the employment of lawyers with disabilities and successfully integrate them into the workplace. The other employment-related project was to assist the EEOC in preparing a fact sheet on reasonable accommodations that focused on legal employers.

#### ***Subcommittee on Lawyers with Disabilities***

This Subcommittee focuses on issues of concern to lawyers with disabilities, and on ensuring full and equal participation in the legal profession by lawyers and law students with disabilities. It coordinates a national Mentor Program for Law Students with Disabilities (see below) and organizes the ABA Annual Meeting's reception for lawyers with disabilities. In addition, in past years, the Subcommittee has planned roundtables and conferences for lawyers and law students with disabilities, and has worked to establish a scholarship program for law students with disabilities. This Subcommittee also maintains a relationship with the National Association of Law Students with Disabilities. Finally, the Subcommittee, through the Commission, has co-sponsored diversity programs with the ABA Commissions on Racial & Ethnic Diversity, and Women in the Profession.

#### ***Subcommittee on Criminal Issues***

This Subcommittee focuses on lawyers and clients in the criminal justice system that have disabilities. It sponsored a CLE at the 2006 Annual Meeting, entitled "Effectively Representing Defendants with Disabilities." The Subcommittee also participated on the Task Force on Mental Disability and the Death Penalty, which submitted a recommendation to bar the execution of certain categories of defendants with severe mental disabilities, which was adopted by the ABA's House of Delegates

### **Law Publications and Products**

#### ***Mental & Physical Disability Law Reporter***

For more than thirty years, the *Reporter* (six issues annually) has provided analyses of key disability law developments; coverage of leading state and federal court decisions, legislation, and regulations in twenty-two topics addressing both mental disability law and disability discrimination law; and articles by experts in the field.

#### ***Mental & Physical Disability Law Digest***

Used in conjunction with the *Reporter* or alone, the *Digest* provides a comprehensive summary and analysis of federal and state disability laws (with citations to cases, statutes, regulations, and books/periodicals) using the same twenty-two topics as the *Reporter*.

#### ***Disability Discrimination Law, Evidence and Testimony: A Comprehensive Reference Manual for Lawyers, Judges and Disability Professionals (2008)***

This reference manual analyzes federal and state disability discrimination laws in six major areas (i.e.,

employment, public services, public accommodations, telecommunications and the Internet, housing and zoning, and education); summarizes the history of disability discrimination law; examines the relationship between attorneys and disabled clients; discusses expert evidence and testimony in disability discrimination cases; and includes appendices of the laws in the fifty states plus D.C. covering the six major areas of disability law, as well as a listing of Supreme Court cases addressing disability law.

#### ***Mental Disability Law, Evidence and Testimony: A Comprehensive Reference Manual for Lawyers, Judges and Mental Disability Professionals (2007)***

This reference manual is a guide for lawyers, judges, law students, and forensic and other mental disability professionals through the maze of civil and criminal laws, standards, and evidentiary pitfalls, and forensic practices that characterize this area of the law. Moreover, it summarizes what empirical evidence exists to support or raise concerns about these legal standards and forensic practices when they are introduced in the courtroom.

#### ***Website***

The Commission's website includes a listing of all available Commission publications, excerpts from the current issue of the *Reporter*, a state-by-state directory of lawyers practicing disability law, and a listing of disability lawyers, law firms, federal agencies, and organizations. The website also highlights Commission news and special projects, in particular the activities of the Subcommittee on Lawyers with Disabilities. <http://www.abanet.org/disability>.

#### ***Online Research Services***

The Commission offers subscriptions to a database containing all the cases and legislation that have been summarized in the *Reporter* from January 2003 forward. The database is searchable by key words, case name, topic, jurisdiction, date, and key numbers.

#### ***Directory of Lawyers Practicing Disability Law***

This first-of-its-kind online directory provides listings of lawyers and law firms for individuals seeking representation on disability law-related claims. It covers all fifty states plus the District of Columbia and Puerto Rico.

## **Commissioners**

### ***Alex J. Hurder, Commission Chair***

Alex J. Hurder is a clinical professor of law at Vanderbilt Law School. He graduated from Harvard College in 1967 and Duke Law School in 1975. Professor Hurder directs a clinic that represents clients in special education and Social Security disability cases, and is an expert on the Americans with Disabilities Act. He has a particular interest in the rights of individuals with mental disabilities. He is co-chair of the Committee on Rights of Persons with Disabilities of the ABA Individual Rights and Responsibilities Section.

### ***Randi B. Whitehead, Chair, Subcommittee on Goal IX Report***

Randi B. Whitehead is a lawyer in Sarasota, Florida and has been an active member of the ABA for over fifteen years. She has served on the ABA Working Group on Health Care Reform. She also serves as the Group Chair and Newsletter Editor for the Real Estate Law Group and Vice Chair of the Diversity Committee of the General Practice Solo & Small Firm Division, Chair of the Law Practice Management Committee of the Young Lawyers Division, Chair of the Law Practice Management Committee of the Tort, Trial & Insurance Practice Section and as a member of the Publishing Board and Member Development Committee of the Law Practice Management Section. She received her B.S. in Public Relations from the University of Florida and her J.D. from the University of Florida College of Law.

### ***Lori D. Ecker, Member***

Lori D. Ecker is an experienced trial attorney, and an arbitrator and mediator. She represents employees in discrimination, harassment, and wrongful discharge cases, and with noncompete and severance agreements and employment contracts. Ecker is on the AAA's Employment Arbitration Roster and is a Certified Mediator for the Circuit Court of Cook County. She is a fellow of the College of Labor and Employment Lawyers. Ecker is the plaintiff's co-chair of the Membership for the Employee Rights and Responsibilities Committee of the ABA's Labor and Employment Law Section.

### ***William J. Edwards, Member***

William J. Edwards is a Deputy Public Defender with the Los Angeles County Public Defenders Office, and has served in that position since 2001. Since 1996, he has specialized in the representation of people with mental retardation/developmental disabilities in the criminal justice system. Previously, Edwards worked with the Office of the Public Defender in San Diego and Riverside County, California. From 1999 to 2001, he worked as a staff attorney for the Office of the Capital Collateral Counsel in Tallahassee, Florida. Edwards represented inmates under sentence of death in state and federal court.

### ***David M. English, Member***

David M. English is the W.F. Fratcher Missouri Endowed Professor of Law at the University of Missouri-Columbia, where he has taught since 1998. Professor English is an expert in the fields of estate planning and elder law. For the ABA, he is a member of its House of Delegates and a member of the Executive Committee of the Real Property Trust and Estate Law Section. Professor English has long been active with the National Conference of Commissioners on Uniform State Laws. He received his B.A. from Duke University and his J.D. from Northwestern University School of Law.

### ***Margaret M. Foran, Member***

Margaret (Peggy) M. Foran is Senior Vice President-Corporate Governance, Associate General Counsel and Corporate Secretary of Pfizer Inc. She serves on the Corporate Directors Institute's Independent Advisory Board of the National Association of Corporate Directors (NACD). She is a member of the Disclosure Task Force and Co-Chair of the Director Voting Task Force of the ABA's Committee on Corporate Laws and Chair of the ABA Committee on Corporate Governance. She has also served as a speaker and panelist for various professional associations, has written several articles on corporate governance and securities law issues and has served on several regulatory task forces and organization boards. Ms. Foran received her B.A. (magna cum laude) and J.D. degrees from the University of Notre Dame.

### ***Esmé V. Grant, Member***

Esmé V. Grant recently graduated from Golden Gate University School of Law in San Francisco, CA with a specialization in public interest law. While pursuing her J.D., Esme worked at the San Francisco Mayor's Office on Disability on projects including improving curb ramp accessibility and developing the city's reasonable modification and animal service user policies. Ms. Grant was the ABA Student Division Liaison for Commission in her final year in law school.

### ***William H. Grignon, Member***

William H. Grignon is a senior associate in the litigation group of the Los Angeles office. His areas of practice include securities and shareholder litigation, commercial contracts and restructuring. Mr. Grignon participates in the Trial Advocacy Prosecutors Program for the cities of Hermosa Beach and Redondo Beach, California. Mr. Grignon also participates in his firm's pro bono adoption program with the Alliance for Children's Rights. He is an adjunct professor of law at Pepperdine University. Mr. Grignon has a B.A. from Mount Saint Mary's College, M.F.A. from UCLA and his J.D. from Pepperdine University School of Law.

**Andrew D. Levy, Member**

Andrew D. Levy is a trial lawyer from Baltimore, Maryland. He handles both civil and criminal cases, and is listed in Best Lawyers in America in both the “Criminal Defense” and “Commercial Litigation” categories. Levy has frequently acted as counsel in efforts to establish group homes for persons with disabilities in the face of active community resistance, and was lead counsel in the landmark case, *Potomac Group Home Corp. v. Montgomery County, Md.* He obtained the first judgment in the country under the design & construction requirements of the Fair Housing Amendments Act in the *Baltimore Neighborhoods v. Rommel Builders* series of cases. Mr. Levy is also an adjunct professor at the University of Maryland School of Law. Among the courses he has taught are Torts, Criminal Law, Evidence, and Trial Practice.

**Noel J. Nightingale, Member**

Noel J. Nightingale received degrees from Whitman College in Walla Walla, Washington, and the University of Washington School of Law (cum laude) in Seattle. She is a member of the Washington State Bar Association, and practiced environmental law with Heller Ehrman in Seattle. Ms. Nightingale served as an Assistant Director of the Washington Department of Services for the Blind. She then served as the Regional Commissioner for the federal Rehabilitation Services Administration for two regions in the western United States. Noel is now an attorney with the Office for Civil Rights in the U.S. Department of Education in Seattle.

**Wendy E. Parmet, Member**

Wendy E. Parmet is Matthews Distinguished University Professor of Law at Northeastern University School of Law and Program Director of the law school’s dual degree J.D.-M.P.H. program with Tufts University School of Medicine. She teaches Public Health Law, Health Law, Disability Law, Bioethics, and Torts. Professor Parmet has recently co-authored, with Patricia Illingworth, *Ethical Health Care*, published by Prentice Hall and has published widely in medical journals and law reviews on health care access and disability law. In 1998, she served as co-counsel for the plaintiff, Sydney Abbott, in the Supreme Court first case construing the Americans with Disabilities Act, *Abbott v. Bragdon*. She is on the Board of Directors of Health Law Advocates and the Public Health Law Association. She received her J.D. from Harvard Law School.

**Adele Rapport, Member**

Adele Rapport, a University of Michigan Law School graduate is Senior Counsel with the Law Office of Richard T. Seymour P.L.L.C. Ms. Rapport was the Regional Attorney for the Detroit District Office of the U.S. Equal Employment Opportunity Commission from 1993-2006. Ms Rapport frequently speaks on disability topics. She is the former Chair of the Employment Rights Subcommittee

of the ABA Labor and Employment Section. She is also a former member of the ABA Standing CLE Committee and the immediate past Chair of the Executive Board of the American Association of Justice’s (formerly the American Trial Lawyers Association) Employment Rights Section. Ms. Rapport is also on the Board of Governors for the College of Labor and Employment Lawyers and was an Adjunct Professor of Law at the University of Detroit Mercy School of Law where she taught employment discrimination and disability rights courses.

**Mildred A. Rivera, Member**

Mildred A. Rivera is a General Attorney in the Equal Employment Opportunity Commission’s Office of Federal Operations. She graduated from Cornell University’s School of Industrial and Labor Relations in 1986 and from the University of Pennsylvania School of Law in 1989. In 1991, Mildred began work as a Trial Attorney with the Baltimore District Office of the Equal Employment Opportunity Commission. From 2003 until 2006, she served as a Special Assistant to EEOC Chair Cari Dominguez on the President’s New Freedom Initiative.

**Michael A. Stein, Member**

Michael A. Stein holds a J.D. from Harvard Law School and a Ph.D. from Cambridge University. Currently the Cabell Research Professor of Law at William & Mary Law School, he has also taught at Harvard, New York University, and Stanford Law Schools. Before joining William & Mary Law School in 2000, Stein clerked for U.S. Supreme Court Justice Samuel A. Alito Jr. (while on the Third Circuit Court of Appeals), and practiced law with Sullivan & Cromwell in New York. During that time, he served as president of the National Disabled Bar Association, and pro bono counsel for the United States Department of Justice’s Environmental Division and the Legal Aid Society’s Juvenile Rights Division. Professor Stein also participated in the drafting of a United Nations disability human rights convention, and serves on several disability rights advisory boards and blue ribbon panels advising disability-related empirical studies. He also acts as a legal advisor to Rehabilitation International and to the Special Olympics.

**Michael E. Waterstone, Member**

Michael E. Waterstone was raised in Los Angeles, California. He went to UCLA for his undergraduate degree and then Harvard Law School. After law school, he clerked for the Honorable Richard S. Arnold on the Eighth Circuit Court of Appeals. He then practiced law for 3 years with the law firm of Munger, Tolles, & Olson in Los Angeles. Currently he is an associate professor of law at Loyola Law School. His teaching and research interest focus on civil rights and disability law. Amongst other writings, he is a co-author of a casebook and treatise on disability law.

## **ACKNOWLEDGEMENTS**

The Commission thanks the Commission on Racial and Ethnic Diversity in the Profession and the Commission on Women in the Profession, for their collaborative effort with the ABA's Goal IX initiative. Thank you to all of the ABA departments, divisions, sections, and forums that contributed data for this report.

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