An Annual Report on the Participation of Persons with Disabilities in ABA Leadership Positions
GOAL III

REPORT

The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association.

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“Diversity in the legal profession is a primary, ongoing goal for the ABA, and there is room improvement.”

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I. EXECUTIVE SUMMARY

For the 2013-14 bar year, the Commission on Disability Rights (CDR) reports:

- The number of lawyers with disabilities who hold leadership positions in Sections, Divisions, and Forums (SDFs) decreased significantly from 70 to 65 in the past year.
- The percentage of SDFs reporting having attorneys with disabilities in leadership positions decreased from 44% to 50%.
- Three lawyers with a disability held a primary leadership position; one Chair-Elect identified as having a disability, and two Chairs identified as having a disability.
- 17 lawyers with disabilities from eight entities held Committee or Forum Division Chair positions.
- 15 of 34 ABA entities with members track the disability status of their members.
- Ten of 818 ABA (1.2%) Presidential appointments went to lawyers with disabilities.
- One of the 40 members of the Board of Governors report having a disability.
- The number of presenters and faculty with disabilities for ABA continuing legal education programs (CLEs) decreased from 37 (2011-12) to 15 (2012-13).
- Many entities lack awareness of the resources available for making their websites, CLEs/programming, publications/materials, and meetings/events accessible to persons with disabilities.
- The Tort Trial and Insurance Practice Section achieved the highest honors on CDR’s Honor Roll.
II. RECOMMENDATIONS

In light of these survey findings, CDR recommends that entities:

- Track the number of lawyers with disabilities, both visible and hidden, in their membership and leadership
- Sign the CDR’s Pledge for Change
- Set measurable goals over a three-year period to increase disability diversity in membership, leadership, programming, speakers and authors, and outreach efforts
- Reach out to CDR staff for strategies on how to effectively collect disability data
- Offer their members the opportunity to self-disclose hidden disabilities
- Nominate and support lawyers with disabilities for ABA Presidential appointments
- Actively recruit and promote lawyers with disabilities for leadership and membership positions in SDFs
- Work with ABA staff to ensure that all websites, CLEs/programming, publications/materials, and meetings/events are accessible to persons with disabilities
- Solicit speakers and authors with disabilities for CLEs and other programming, events, and publications
- Raise disability awareness by featuring articles about disability diversity, holding CLEs on eliminating bias, and hosting panels on disability diversity and inclusion
- Designate a liaison to serve on CDR
- Adopt the strategies used by CDR’s Honor Roll recipients to enhance the recruitment and advancement of members with disabilities throughout the ABA
- Ensure that ABA leadership and staff receive an orientation and ongoing training about the ways that entities can contribute to the achievement of Goal III’s objectives, including through the practices described in this and other Goal III reports
III. INTRODUCTION

The American Bar Association (ABA), founded in 1878 by 100 lawyers from 21 states, is one of the largest voluntary professional associations in the world. Its primary mission is “[t]o serve equally our members, our profession and the public by defending liberty and delivering justice as the national representative of the legal profession.” Stemming from its long history of promoting reform of the justice system, the ABA established in 1973 the Commission on the Mentally Disabled to focus on the advocacy needs of people with mental disabilities. Following the enactment 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 and Physical Disability Law.

In 2011, the name was changed to the Commission on Disability Rights (CDR) to better reflect its two-pronged mission: 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.” Today, CDR is the only entity within the ABA—and the legal profession—that addresses the needs of, and the challenges faced by, lawyers and law students with disabilities on a national level.

In 2008, the ABA adopted Goal III “[t]o eliminate bias and enhance diversity.” It has two objectives: to “[p]romote full and equal participation in the association, our profession, and the justice system by all persons” and “eliminate bias in the legal profession and the justice system.” Goal III was derived from its predecessor, ABA Goal IX, whose aim was “[t]o promote full and equal participation in the legal profession by minorities, women, persons with disabilities, and persons of differing sexual orientations and gender identities.”

Each year, ABA staff conduct the Goal III survey, collecting data from the ABA’s Sections, Divisions, and Forums (SDFs) on the participation within the ABA of persons with disabilities, as well as women, racial minorities, and persons who are gay, lesbian, bisexual, or transgender. CDR’s 2014 Report presents the findings of the survey with respect to the participation of lawyers with disabilities.
Ech year, CDR names to its Honor Roll those SDFs that have demonstrated a commitment to the inclusion of lawyers with disabilities. Selection is based on four criteria: (1) leadership, i.e., entities that have a significant level of participation by lawyers with disabilities in their leadership and committees; (2) outreach/promotion, i.e., entities that actively recruit individuals with disabilities and involve members with disabilities in their programs and events; (3) accessibility, i.e., entities that ensure that their CLEs, websites, publications, and events are accessible to persons with disabilities; and (4) education, i.e., entities that select faculty who have disabilities and/or cover disability-related topics. This year, the Honor Roll comprises three levels: platinum, gold, and silver.

A. Platinum

Tort Trial Insurance Practice Section (TIPS) (Eugene G. Beckham, Chair)

This Section has demonstrated the highest level of commitment to the full participation of lawyers with disabilities both within the Section and within the legal profession as a whole. Its numbers of leaders with disabilities have risen significantly from four in 2012-13 to 16 this year. TIPS’s Standing Committee on Diversity in the Profession includes disability as a diversity category in its diversity mission statement. TIPS has signed CDR’s Pledge for Change: Disability Diversity in the Legal Profession and works closely with its CDR liaison, Alan S. Rachlin, to ensure that its diversity efforts and initiatives integrate disability. In 2013 and 14, the Section presented two one-hour programs in its Diversity Series: A View from the Trenches. Each included a speaker with a disability.

TIPS commits to increasing diversity in its membership and leadership; ensuring that its programs, publications, and activities reflect diversity; providing training and education on the importance and value of diversity; and forming strategic alliances with diverse bar associations and other groups charged with advancing diversity. The Section elects a Chief Diversity Officer, who is responsible for monitoring the Section’s efforts to grow a diverse membership and leadership. Its Standing Committee on Diversity in the Profession works closely with leadership to promote the Section’s diversity goals, support the general committees, and promote the value of having diverse professionals and groups included in all Section activities. In particular, the Standing Committee assists its 31 general committees in identifying diverse speakers for its CLEs and reaches out to affinity bar associations to find ways to collaborate and discuss common issues and goals.

TIPS has a Leadership Academy, which provides participants with the knowledge and skills necessary to develop a vision to lead the legal profession and to improve leadership service in the community as a whole. One of the Academy’s goals is to increase the diversity of leaders within their communities. In particular, the Academy strives to inspire young diverse lawyers to think about ways to broaden the view of diversity both in the practice of law and within the Section. Lastly, the Section’s Liberty Achievement Award honors attorneys and judges who take a leadership role in promoting diversity in the legal profession.

B. Gold

Section of Litigation (Don Bivens, Chair)

This Section has demonstrated an outstanding level of commitment to enhancing disability diversity and inclusion. Three of its leaders identify as having a disability. Additionally, the Section’s diversity statement includes lawyers with disabilities.

The Section’s diversity plan features five accountability grids, addressing: (1) all Goal III diversity characteristics; (2) lawyers of color; (3) female lawyers; (4) lawyers with disabilities; and (5) lesbian, gay, bisexual, and transgender lawyers. Each grid has action items, categorized into the following areas: leadership; communications and training; membership; programs and publications; and outreach. For the lawyers with disabilities grid, action items include: active recruitment of lawyers with disabilities; disability sensitivity training for leadership; an online forum for lawyers with disabilities to share experiences and express
concerns; and meetings, events and program-
ing in accessible facilities. The Section’s Diversity Committee works closely with the Section Council’s Diversity Committee to con-
tinue the Section’s progress on diversity goals.

In addition, the Section has a good under-
standing of web accessibility and continues to work towards making its webpages accessible to persons with disabilities. Some of the best practices the Section has implemented include using alt-tags (alternative attributes) and title tags to label images; making PDFs accessible; utilizing strong color contrast between text and background; minimizing the need for scrolling for persons with limited dexterity; and refraining from the use of “click here”.

C. Silver

Section of Science & Technology Law (SciTech) (Hugh B. Wellons, Chair)

This Section has earned silver status for its strong commitment to the inclusion of per-
sons with disabilities. Its leadership includes three lawyers with disabilities. SciTech includes a place on its speaker and author release and appointments forms for individu-
als who choose to provide diversity informa-
tion. SciTech continues to ensure that its website, meetings, events, transportation, and program materials are accessible to persons with disabilities. For instance, the Section holds its meetings and events in accessible facilities and has made its over 30 podcasts accessible for those with hearing impairments. Furthermore, SciTech has a Membership and Diversity Committee. The Section’s diver-
sity statement and plan include persons with disabilities. The Section has also signed CDR’s Pledge for Change and continues to co-sponsor CDR’s CLEs and support its diversity events.
V. ABA Data on Disability & Legal Profession

In a 2013 ABA survey of disability status to 204,249 members, of 10,022 responses received, 757 (8%) responded “yes”; 9,016 (90%) responded “no”; and 249 (2%) chose not to answer. In 2012, the ABA’s Market Research Department collected relevant statistics on lawyers with disabilities for its National Lawyer Population Survey and found that only two jurisdictions—Oregon and Washington—collect information on lawyers with disabilities. As the National Association for Law Placement (NALP) has recognized, this lack of data constitutes a major barrier to measuring progress regarding disability diversity in the legal profession. In its press release for the 2013-2014 NALP Directory of Legal Employers, NALP states: “The directory . . . collects information about lawyers with disabilities, though this information is much less widely reported than information on race/ethnicity and gender, making it much harder to say anything definitive about the representation of lawyers with disabilities.”

CDR acknowledges the inherent difficulties associated with collecting data on the numbers of ABA members with disabilities. Many types of disabilities may be hidden or non-apparent, such as mental health issues, learning disabilities, cognitive impairments, and chronic conditions. Also, members may not want to self-identify due to concerns about confidentiality, stereotyping, bias, prejudice, and misuse of the information. Others may not consider themselves to be disabled due to the ameliorative effect of corrective measures such as medications, mobility devices, and other auxiliary aids. However, information about disability is essential to the ABA’s ability to measure its progress under Goal III.

VI. Survey Methodology

In fall of 2013, CDR surveyed SDFs as to the number of their members with disabilities in 11 categories: Membership; Additional Committee Leadership; Chair; Chair-Elect; Committee Chairs of Forum Division Chairs; Council or Forum Governing Committee; House of Delegates; Nominating Committee; Nominating Committee Chair; Primary Leadership Officers; and CLE Programming Faculty. Commissions and Committees were also surveyed, but only as to one category: CLE Programming Faculty. In addition to these quantitative questions, CDR asked SDFs and Commissions and Committees qualitative questions regarding: the accessibility of their websites, publications, events, and resources to persons with disabilities; the inclusion of disability within their diversity statements; accommodations policies and complaints; and outreach efforts.

The ABA entities used varying methods for collecting the data. Some solicited their members or leaders directly, while others used the ABA census data collected as it particularly pertained to their membership. Six of the 34 entities surveyed their entire membership and asked about disability, some used a Qualtrix survey, while a number of entities—the Section of Administrative Law & Regulatory Practice, the Business Law Section, the Section of Environment, Energy and Resources, the Section of International Law, the Section of Science & Technology Law, and the Law Student Division—created their own survey instrument.

For purposes of this year’s survey of leadership, entities were asked to define a “person with a disability” broadly to include:

a) Anyone who has identified him or herself as having a disability;

b) Anyone who has requested an accommodation due to a disability;

c) Anyone who observation or other objective evidence identifies as a person with a disability.

Types of disabilities include: Any mental, sensory, or physical impairment or condition, such as: epilepsy; muscular dystrophy; multiple sclerosis; fibromyalgia; paraplegia; quadriplegia; amputations; psychiatric disabilities including depression, anxiety, schizophrenia, post-traumatic stress disorder, bipolar disorder; dementia; learning disabilities; AIDS or HIV status; cancer; diabetes; heart disease; stroke; blindness and other visual impairments; deafness and other hearing impairments; alcoholism or other substance abuse; and age-related impairments.

The ABA’s 22 Sections, 6 Divisions, and 6 Forums focus on specific areas of law or career stage. Sections draw their membership from lawyers or judges with common professional interests, and operate much like specialty 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 numerous publications. Sections contribute to policy-making, both within and outside the ABA.

There are two kinds of Divisions: specialized groups for members and internal ABA departments. The specialized groups are solo, small firm, and general practice; government and public sector; judicial; law students; and young and senior lawyers. The internal departments are bar, legal, and public services; public education; and communications and media relations.

ABA Forums explore and monitor new areas of the law as they develop. The topics covered are affordable housing and community development, air and space, and communication law, as well as franchising and the construction, entertainment, and sports industries. Forums are open to membership, as long as one is a member of an ABA Section or Division.

Other ABA entities, including Commissions, Special Committees, Standing Committees, and Task Forces, consist of members appointed by the ABA President. They develop and implement policy and carry out activities that fall within their mandate.
A. ABA LEADERSHIP

Since 2004, the ABA President’s Office has ensured that applications for Presidential appointments include a question regarding disability status. For 2013-14, ten of 818 (1.2%) Presidential appointments went to persons who identified as having a disability, marking a continued decline from previous years—ten of 732 in 2012-13 (1.8%), 15 of 751 in 2011-12 (1.9%), 17 of 750 (2.3%) in 2010-11, and 18 of 760 (2.4%) in 2009-10. The highest number of Presidential appointments to persons who identified as having a disability was 46 of 693 (6.6%) in 2008-09 (see Figure 1). In 2013, in an effort to increase diversity (with respect to disability, as well as the other Goal III categories), the ABA formed the SOC Diversity Working Group, which requested from ABA Sections the names of their diverse members who should be considered for Presidential appointments.

Figure 1: ABA Presidential Appointees with Disabilities

- William H. Neukom (2007-08) 1.8%
- H. Thomas Wells, Jr. (2008-09) 6.6%
- Carolyn B. Lamm (2009-10) 2.4%
- Stephen N. Zack (2010-11) 2.3%
- Wm. T. (Bill) Robinson (2011-12) 2%
- Laurel G. Bellows (2012-13) 1.8%
- James R. Silkenat (2013-14) 1.2%
Of the 40 ABA members who serve on the Board of Governors—the executive arm of the ABA—one reported having a disability, compared to one in 2012-13, and zero in 2011-12, 2010-11, 2009-10.

B. ABA ENTITY LEADERSHIP
For 2013-14, 65 of the ABA’s entity leadership positions were held by lawyers identified as having disabilities—a small decline from the previous year, but still a significant jump from 2011-12 (23), and the previous years beginning in 1998-99 (see Figure 2). Prior to 2012-13, the highest number was 34 (in 2004-05 and again in 2010-11).

Figure 2: ABA Entity Leadership Positions Held by Lawyers with Disabilities
The percentage of ABA entities that had persons with disabilities on their leadership teams rose to 50% from 44% in both 2011-12 and 2012-13 (see Figure 3). This year’s percentage surpassed the previous highest percentage, which was 47% in 2004-05. The entities that contributed to this increase were: the Section of Administrative Law and Regulatory Practice; the Business Law Section; the Section of Dispute Resolution; the Section of Environment, Energy, and Resources; the Health Law Section; the Section of Intellectual Property Law; the Section of Litigation; the Section of Public Contract Law; the Section of Real Property, Trust and Estate Law; the Section of Science & Technology Law; the Tort Trial and Insurance Practice Section; the Government and Public Sector Lawyers Division; the Solo, Small Firm and General Practice Division; the Young Lawyers Division; the Forum on Affordable Housing and Community Development Law; and the Forum on Air & Space Law.

Figure 3: Percentages of Responding Entities with Lawyers with Disabilities in Leadership Positions
(i) PRIMARY & COMMITTEE LEADERSHIP

Primary leadership positions (Section Officers or Forum Chairs, Chairs-Elect, Immediate Past Chairs, and appointed leadership) are the most senior leaders within SDFs. For 2013-14, four lawyers with a disability held primary leadership positions, a minimal rise from 2012-13, 2011-12, and 2010-11, when only two lawyers with a disability held primary leadership positions (see Figure 4). The highest number was 20 in 2003-04, followed by 15 in 2000-01, 14 in 2005-06, and 13 in 2002-03 and 2004-05. These numbers dropped to the single digits beginning in 2006-07 and this has continued through 2013-14. This year, two Chairs and one Chair-Elect identified as people with disabilities, a slight rise from 2012-13, when there were no Chairs and two Chairs-Elect.

Figure 4: Primary Leadership Positions Held by Lawyers with Disabilities
Seventeen lawyers with disabilities (from eight entities) held Committee, Forum or Division Chair positions within their entities in 2013-14, a substantial decrease from 41 in 2012-13 (see Figure 5). These entities were: the Business Law Section; the Section of Dispute Resolution; the Section of Environment, Energy and Resources; the Section of Intellectual Property Law; the Section of Litigation; the Section of Public Contract Law; the Section of Real Property; and the Tort Trial and Insurance Practice Section. The entities that made this year’s Honor Roll employ strategies that may be attracting and helping with the advancement of lawyers with disabilities in ABA leadership.

Figure 5: Number of ABA Leadership Positions Held by Lawyers with Disabilities, 2013-14
Furthermore, the following five of the 34 eligible entities reported having Additional Committee Leadership positions (28 total) held by lawyers with disabilities: the Business Law Section; the Health Law Section; the Tort Trial and Insurance Practice Section; the Law Student Division; and the Forum on Air & Space.

Based on the survey results, CDR concludes that most leaders with disabilities in the ABA continue to be found at the committee level, as opposed to the primary leadership positions. Initiatives to increase disability diversity in membership much continue so that members with disabilities can climb the ranks and assume a greater role in leadership in the coming years.

C. CLE PROGRAMMING & FACULTY

Each ABA entity chooses the faculty for its CLE programs. For 2012-13, 15 presenters at ABA CLE programs were identified as having a disability, less than half of the 37 presenters with disabilities in 2011-12, but still an increase from the 11 identified in 2010-11. These entities were the Section of Environment, Energy and Resources; the Family Law Section; the Section of Labor and Employment Law; the Section of Public Contract Law; the Section of Real Property, Trust and Estate Law; the Government and Public Sector Lawyers Division; and the Forum on Affordable Housing and Community Development Law.

D. WEBSITES, PUBLICATIONS & EVENTS ACCESSIBILITY

All SDFs were asked if their websites, publications, and events are accessible to persons with disabilities, and to describe their policies for providing accommodations. Many entities responded that their websites were accessible to the extent that the ABA website and templates are accessible, which means they are not fully accessible. However, eight entities stated that their websites currently or will soon comply with version 2.0 of the Web Content Accessibility Guidelines: the Business Law Section; the Criminal Justice Section; the Section of Labor and Employment Law; the Tort Trial and Insurance Practice Section; the Judicial Division; the Law Practice Division; the Young Lawyers Division; and the Forum on Franchising. Similarly, with regard to publications, most entities responded that they offer alternative formats to the extent that ABA Publishing does so.

CDR recommends that staff receive training and support in using web and publication accessibility tools and resources, as survey responses indicate widespread lack of awareness regarding staff’s ability to create accessible web and publication content. Resources can be found on CDR’s webpage, and CDR staff are available to assist.

With regard to events, 32 entities responded that they publicize the availability of accommodations upon request in their registration materials, brochures, and/or websites, an increase from 29 last year. All entities are encouraged to continue to include information about the availability of accommodations on their websites and in their printed materials, and to train staff on how to use the accessibility checklists included in the ABA’s Meetings & Travel Accessibility Toolkit (created by CDR and the Section of Individual Rights and Responsibilities).

E. DIVERSITY PLANS

Entities were asked if their diversity statements include disability. To date, 25 do—the same as last year. All entities are encouraged to support the ABA’s Goal III by having a diversity plan that includes disability, and most importantly, to implement initiatives and activities to specifically achieve greater disability diversity and inclusion in membership and leadership.

F. PLEDGE FOR CHANGE

In 2009, the ABA, through the CDR, introduced the Pledge for Change. To date, 168 legal employers (e.g., law firms, corporations, state and local bar associations, law schools, etc.) have signed the Pledge, demonstrating their commitment to the employment of persons with disabilities. To date, 20 ABA entities have joined in this commitment: the Business Law Section; the Criminal Justice Section; the Section of Dispute Resolution; the Section of Family Law; the Section of Individual Rights and

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4http://www.americanbar.org/groups/disabilityrights/resources/access_info.html
Responsibilities; the Section of International Law; the Section of Legal Education and Admissions to the Bar; the Section of Litigation; the Section of Real Property, Trust & Estate Law; the Section of Science and Technology Law; the Section of State and Local Government Law; the Tort Trial and Insurance Practice Section; the General Practice, Solo and Small Firms Division; the Government and Public Sector Lawyers Division; the Law Practice Division; the Senior Lawyers Division; the Young Lawyers Division; the Forum on Communications Law; the Center for Racial and Ethnic Diversity; and the Commission on Domestic & Sexual Violence. All ABA entities and the organizations are encouraged to sign the Pledge:¹

VIII. CONCLUSIONS
The collection of demographic data of our ABA members is a critical step in evaluating how well the Association is doing with regard to diversity and inclusion. The Association continues to struggle with the collection of disability data.

Twenty-eight of the 34 SDFs (82%) fail to survey their members with regard to disability status. The primary reason given was discomfort on the part of staff or leadership in asking the question, “Do you have a disability?” This discomfort stemmed from a belief that the question was intrusive, which perpetuates the misconceptions, stereotypes, and bias about persons with disabilities. Until these attitudinal barriers are addressed, the disability data will not reflect the actual diversity of the ABA.

¹http://www.americanbar.org/groups/disabilityrights/initiatives_awards/pledge_for_change.html.
2014 Disability Honor Roll

Platinum
Tort Trial Insurance Practice Section
Eugene G. Beckham, Chair

Gold
Section of Litigation
Don Bivens, Chair

Silver
Section of Science & Technology Law
Hugh B. Wellons, Chair