

American Bar Association
**Commission on Mental &
Physical Disability Law
2001 Goal IX
Report**

*An Annual Report on the Participation by Lawyers with Disabilities in
Leadership Positions at the American Bar Association*

May 2001

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Introduction

This is the third year in which the Commission on Mental and Physical Disability Law (the “Commission”) has participated in a Goal IX leadership survey to American Bar Association (ABA) sections, divisions, and forums. *The Goal IX Survey* gathers information about the participation of persons with disabilities, as well as women and minorities, in ABA leadership positions. The 2001 *Commission on Mental and Physical Disability Law Goal IX Report* presents the findings of the survey, and also provides some recommendations.

The *Goal IX Survey* does not define the term “disability” or “person with a disability.” It instructs the respondents that “[d]isabilities may be inferred from self-identification, direct observation, or other reliable data.” One major change in the year’s *Survey* is the insertion of the phrase “impairment or disability” instead of simply stating “disability.” This change was made in order to recognize that some senior attorneys who have developed age-related disabilities for example hearing impairments, do not consider themselves as persons with disabilities. The use of the word “impairment” was to alleviate this concern, and account for certain attorneys, particularly those with age-related disabilities.

Current statistics indicate that we are able to identify approximately 1600 lawyers with disabilities out of over 307,256 lawyers who are ABA members. The Goal IX survey data reveals that only 42 out of approximately 15,000 ABA leadership positions are held by lawyers with disabilities. There are several plausible reasons to explain the relatively low degree of participation by lawyers with disabilities in the ABA. First, few persons with disabilities graduate from law school to begin with. Many who do, and those who become disabled after they have become lawyers, do not identify themselves as such for fear of discrimination or stigma. Second, some individuals do not believe that what they have are disabilities. Third, many lawyers with disabilities are not employed or receive low rates of compensation. Thus, they may not choose to become ABA members because of the cost of membership, or have a perception that the ABA is not relevant to them. Last, the ABA may not be doing enough to recruit lawyers with disabilities as members, or to promote them into leadership positions.

The *Commission on Mental and Physical Disability Law Goal IX Report* presents findings, including recommendations in order to assist ABA entities with their efforts to adhere to the ABA’s commitment to diversity by enhancing the participation of lawyers with disabilities pursuant to Goal IX.

I. Methodology

The survey instrument had fifty-five quantitative questions, and there were three open-ended questions addressing entities’ long-range diversity goals and initiatives. Respondents also were permitted to include attachments, such as copies of their diversity plans, goals and strategies, in order to supplement their answers.

This year, the Commission on Racial and Ethnic Diversity was responsible for distributing the surveys to the ABA sections, divisions and forums. This responsibility is rotated each year. Each entity analyzed the data that pertained to them separately, and prepared separate reports of their findings.

II. Background:

1. Total Number of Lawyers with Disabilities in Leadership Roles:

The 1998-99 Goal IX Report identified a total of 21 lawyers with disabilities in leadership roles. The 1999-2000 Report identified 23 lawyers with disabilities in leadership roles.

2. Total Number of ABA Entities that have Lawyers with Disabilities in Leadership Roles:

Last year, in response to the low number of entities (10) with lawyers with disabilities in leadership roles, James Carr, Chair of the Commission, disseminated a letter encouraging ABA entities to work to increase the participation of lawyers with disabilities in leadership positions.

3. Long Range Goals and Initiatives

The 1999-2000 Report revealed that only three of the thirty-nine responding entities mentioned activities to increase participation by lawyers with disabilities. Also, at a recent ABA Diversity Staff Working Group Meeting, there was no mention of any outreach projects specifically designed to increase the participation of lawyers with disabilities in the legal profession.

III. Findings and Discussion:

This report analyzes our findings with respect to the total number of ABA leadership positions that are held by lawyers with disabilities, and the total number of entities that have at least one lawyer with a disability in a leadership role. In addition, this report examines the long range diversity goals and initiatives of the ABA entities, and attempts to discern the extent to which entities are striving to increase opportunities for lawyers with disabilities in the legal profession pursuant to Goal IX. Note that we discuss our findings with respect to the Senior Lawyers Division (SLD) separately because of some unique issues the Division raises with respect to identifying lawyers with disabilities.

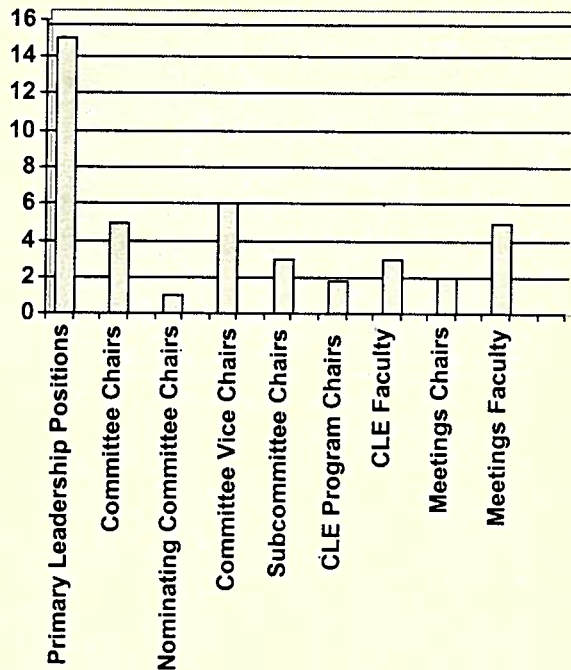
1. Total Number of ABA Leadership Positions held by Lawyers with Disabilities

This year the survey responses identified a total of 42 ABA leadership positions are held by lawyers with disabilities, excluding the Senior Lawyers Division, as compared to a total of 23 identified last year. Although the number of lawyers with disabilities in leadership positions at the ABA has nearly doubled since last year, the percentage based

on the 15,000 leadership positions at the ABA remains quite low. Furthermore, only approximately 1,600 lawyers with disabilities out of 400,000 members have been identified through the ABA census.

The number of primary leadership positions (“Elected Officers”, “Other Leadership Positions”, and “Council Members”) held by lawyers with disabilities increased from a total of 10 last year, to 15 this year. The number of Committee Chairs decreased slightly from 7 last year, to 5 this year. In addition, there were 1 Nominating Committee Chair, 6 Committee Vice Chairs, 3 Subcommittee Chairs, 2 CLE Program Chairs, 3 CLE faculty, 2 Meetings Chairs, and 5 Meetings faculty this year.

Leadership Positions Held by Lawyers with Disabilities



Several entities responded to the questions regarding persons with disabilities with the response “n/a”. It is not clear why the information was not available (n/a). The “n/a” response was given more frequently in response to questions regarding lawyers with disabilities than for questions regarding women and minorities. An “n/a” response suggests that information regarding lawyers with disabilities was not available. Perhaps such responses indicate definitional and/or perception problems on the part of the respondents. In any case, the “n/a” responses undermine our ability to study the level of participation by lawyers with disabilities in leadership positions at the ABA.

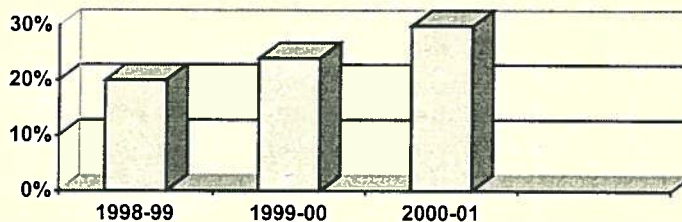
The increase in the number of leadership positions held by lawyers with disabilities, and the number of entities with lawyers with disabilities in leadership positions suggests that the Commission on Mental and Physical Disability Law’s efforts

since 1999 when Goal IX was amended to include persons with disabilities in leadership positions, have had a modest positive effect. Yet, the number of leadership positions held by lawyers with disabilities remains very low, suggesting that more work needs to be done to insure that ABA entities continue to work toward enhancing opportunities for lawyers with disabilities in the legal profession.

2. Total Number of ABA Entities with Lawyers with Disabilities in Leadership Roles

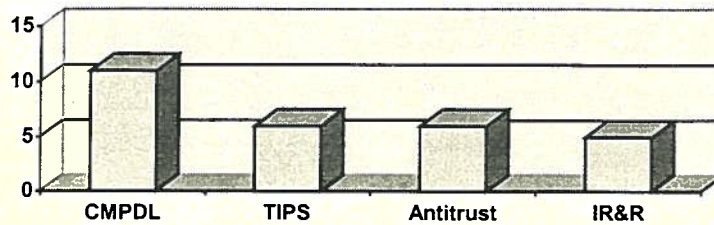
Excluding the Senior Lawyer Division, there were a total of 41 entities responding. Thirteen of these (30 percent) had at least one person with a disability represented in leadership positions. This figure represents an increase from the previous two years. The 1998-99 Goal IX Report revealed that ten out of approximately fifty participating entities (20 percent) had at least one person with a disability in a leadership role, and in 1999-2000, ten out of thirty nine participating entities (24 percent) had persons with disabilities in leadership roles.

ABA Entities with Lawyers with Disabilities in Leadership Roles



For the second consecutive year the following entities included lawyers with disabilities in leadership roles: the Tort and Insurance Practice Section, the Young Lawyers Division, Environment, Energy and Resource, the Commission on Mental and Physical Disability Law, the Section of Family Law, Labor and Employment Law, and the Public Contracts Law Section. In addition, six new entities did so this year: the Criminal Justice Section, the Law Student Division, the Business Law Section, Law Practice Management, the Section of Antitrust Law, and the Section of Individual Rights and Responsibilities. Our Commission had the highest number of leadership positions held by lawyers with disabilities (11), followed by the Tort and Insurance Practice Section (6) and Section of Antitrust Law (6), and the Section of Individual Rights and Responsibilities (5). It is important to note, that the Commission is comprised of only 15 members, whereas the other entities have many more members; TIPS has 24,855, Antitrust has 8,365, and IR&R has 2,496.

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



3. Senior Lawyers Division

The number of leadership positions held by lawyers with disabilities in the SLD is not clear from its survey responses. There are inquiries from SLD as to whether “age-related disabilities” should be counted as disabilities. In response to the question attempting to identify any Elected Officers with disabilities, SLD suggested that “probably 1/3 of leaders are hearing-impaired due to age”, and that “two of the officers use canes”, yet marked “no” to the questions. In addition, SLD indicated that many of its Council Members are partially deaf, but inserted a question mark in response to whether there were any council members with disabilities. SLD also noted that many of its Committee Chairs use hearing aids, and that several use canes, but again did not provide a specific number of lawyers, and only inserted a question mark in response to that question. SLD also noted that it did not know what was considered a “disability.” Finally, in one instance, SLD indicated that one Nominating Committee member has an impairment or disability, but then qualified that answer by noting that SLD was “not sure he considers himself disabled or impaired.”

The SLD survey responses raise some important issues with respect to identifying lawyers with disabilities, and the definition of impairment and disability. According to the SLD, senior lawyers do not like to consider themselves “disabled.” This year the CMPDL added the word “impairment” to try to account for age-related disabilities, but evidently there still was confusion. Finally, the SLD survey responses raised the broader issue of whether people responding to the survey fully understand what constitutes an impairment or a disability, and whether the survey instrument should include different definitions and/or instructions in the future.

4. Long Range Goals and Initiatives

The open-ended questions regarding the entities’ long range diversity goals and initiatives examined the degree to which ABA entities have goals and initiatives aimed at increasing the participation of lawyers with disabilities in leadership roles. Of the 41 responding entities that participated in the survey, only 6 specifically mentioned initiatives pertaining to lawyers with disabilities, which nevertheless represented an increase from last year when only 3 entities specifically mentioned lawyers with

disabilities. Finally, several entities specifically mentioned diversity initiatives geared toward women and/or minorities, but did not include persons with disabilities.

The Family Law Section adopted a Diversity Policy resolving to “actively recruit lawyers of color, women lawyers, lawyers with disabilities, and younger lawyers.” The Section of Individual Rights and Responsibilities reported a long-range goal of cultivating women, minorities and persons with disabilities as active members and leaders. The Business Law Section states in its Diversity Plan that it must do more to “actively recruit lawyers of color, women lawyers, lawyers with disabilities, and younger lawyers” and to foster an atmosphere of inclusion, seek their participation on panels, and provide leadership opportunities for these groups.

The Young Lawyers Division (YLD) indicated that it has a general goal to “promote full and equal participation in the profession by minorities, women and the disabled.” However, the division did not indicate any specific initiatives that included lawyers with disabilities although it had several initiatives geared toward minorities and women. The Section of International Law and Practice specifically mentioned lawyers with disabilities in its long-range goal of increasing the numbers lawyer groups that traditionally have been underrepresented in law school, the practicing bar and in the judiciary. The Senior Lawyers Division (SLD) submitted a detailed diversity plan, which included lawyers with disabilities. SLD’s Goal 12 resolves “[t]o increase the participation of lawyers of color, women lawyers, and lawyers with impairments or disabilities in the membership, on the Committees and in the leadership of the Division.” In addition, one of SLD’s objectives resolves “[t]o identify women, persons of color and persons with impairments or disabilities within the Division and to encourage those thus identified to take an active role in the Division so that they can be advanced promptly to leadership positions.” Several other entities that reported having lawyers with disabilities in ABA leadership roles, presented long-range goals and initiatives to increase the participation of women and minorities, but did not demonstrate similar goals for persons with disabilities.

The responses regarding long range diversity goals and responses suggest that entities devote much of their diversity efforts toward increasing the participation of women and minorities in the legal profession. It is unclear why many entities have omitted lawyers with disabilities in their diversity plans. Perhaps one reason is that this is only the third year that the Commission has been included in the Goal IX diversity initiative. It is clear that more work needs to be done to ensure that entities are more aware of the ABA’s commitment to lawyers with disabilities pursuant to Goal IX, and to encourage them to do more to enhance the participation of lawyers with disabilities in the legal profession by including lawyers with disabilities in their formal diversity plans.

Conclusions and Recommendations

We find that much work remains to be done in order to increase the participation by lawyers with disabilities in the legal profession. Therefore, we provide some recommendations to address the main problems that were apparent from this year's survey results.

1. Change Survey Instrument to Better Guide Respondents

First, comments by the Senior Lawyers Division, and possibly the "n/a" response by other entities, suggest a problem with understanding the definitions of "impairment" and "disability." Unlike gender or race which are generally obvious characteristics and therefore self-explanatory, disabilities are not always self-evident. Therefore, some changes in the survey instrument may help to guide the respondents, and enable them to answer the questions more fully and accurately. For example, in order to overcome obstacles related to definition and perception problems, the survey instrument could provide some definitions of the terms "impairment" or "disability." In addition, the questionnaire could provide some examples of impairments of disabilities. In addition, a question such as "Do you feel that you clearly understand the definitions of impairment and disability?" will enable us to discern whether people have a basic understanding of the definitions. If respondents do not have a clear understanding of what they are being asked, our findings are likely to be skewed.

2. Communicate with ABA Leadership to Encourage Appointments of Lawyers with Disabilities

The Commission should send letters from the ABA President and Chair of the Commission, encouraging entities to adhere to the ABA's commitment to lawyers with disabilities pursuant to Goal IX. The Commission should continue to coordinate its diversity efforts with the Commission on Women, and the Commission on Racial and Ethnic Diversity. As has been done in the past, the Commission should recognize and commend entities that have lawyers with disabilities in leadership positions, encouraging them to continue with their efforts to enhance opportunities for lawyers with disabilities pursuant to Goal IX. Further, the Commission should continue to compile a database of lawyer groups and bar associations that represent lawyers with disabilities, and use the information to assist other entities that we can assist them with their efforts to recruit lawyers with disabilities in leadership activities.

3. Encourage Entities to Include Lawyers with Disabilities in their Diversity Plans

Because there are several entities that have lawyers with disabilities in leadership positions, yet do not have lawyers with disabilities included in their formal written diversity plans, the Commission should encourage entities to include lawyers with disabilities in their formal diversity plans. Letters of commendation should be written to

the entities that already include lawyers with disabilities in their formal diversity plans. Further, the Commission should write letters to the entities that did not provide such information and provide examples of what other entities have done in the past, and explain the significance of providing this important data. Finally, the Commission should create an "Honor Roll" similar to the one used by the Commission on Racial and Ethnic Diversity, to recognize the entities that have included lawyers with disabilities in their formal long-range diversity goals pursuant to ABA's Goal IX policy to increase the participation of women, minorities, and lawyers with disabilities in the legal profession.