

## **Affirmative Action Program**

*The goal of the Affirmative Action Program (AAP) is to increase the diversity of the Oregon bench and bar to reflect the diversity of the people of Oregon, to educate attorneys about the cultural richness and diversity of the clients they serve, and to remove barriers to justice.*

### **Program Description**

In 1975, the Oregon State Bar approved the recommendation of the Civil Rights Committee to establish an affirmative action program with the goal of “achieving representation of minority persons in the bar in the same proportion as they are represented in the population of Oregon, while at the same time not lowering the standards for admittance....” At that time, there were 27 ethnic minority attorneys in Oregon, 0.5% of the total active bar members. Statistical reports for December 2005 indicate that 701 of 12,771 bar members (5.5%) self-identify as ethnic minorities.

The AAP served only ethnic minority participants through 1998 (466 active OSB ethnic minority members—4.1%). In 1998, the AAP’s mission became an access to justice mission with focus also given to increasing ethnic minority diversity through outreach efforts. Beginning with the class entering in 1998, eligibility for AAP programs was split—anyone (regardless of ethnicity) who could help advance the program’s mission was eligible to apply for allocative programming. Only ethnic minorities were eligible to participate in non-allocative/outreach programming (hereafter Opportunities for Law in Oregon, or OLIO) until 2005.

OLIO is a recruitment/retention strategy for ethnic minority law students. Beginning with the OLIO Orientation in 2005, OLIO participation included non-ethnic minority upper division students who were committed to advancing the OLIO mission. Upper division students interested in participating in the OLIO Orientation must complete applications which demonstrate such commitment. An additional development in 2005 was the inclusion of a young prospective law student in a pilot project. The objective is to mentor younger ethnic minorities in Oregon and to provide greater community ties through the young person’s family and other organizations.

All AAP programs and activities are designed to recruit and retain participants who can help to advance the program’s mission. While there can be no specific numerical goals as measurable diversity targets, the program will have achieved its diversity focus of the mission upon the creation of a critical mass of participants—that is,

when the bar membership can recruit and retain a minimum number of participants who can self-sustain at least that minimum number.

Empirical data (i.e., the number of AAP participants passing the Oregon bar examination) correlate with traditional cost/benefit analysis. Because AAP goals are premised on the value of diversity and identifying methodologies to best instill and reinforce that value, AAP analysis also involves non-empirical data that takes into account subjective evaluations of program participants - i.e., law students from Oregon law schools, law personnel from Oregon law schools, lawyers from various areas of practice, law firm managers from various areas of practice, judges, and public participants with ties to the legal community. Collective evaluations help to establish a series of links which, in conjunction with traditional empirical data, continually enhance the AAP while identifying overall consistent measures of AAP performance. This analysis formally began with 2004 Program Measures as "Outcome #7."

#### **Volunteers/Partnerships**

*Volunteers:* 240. This includes members of the Affirmative Action Committee; Employment Retreat lawyers and judges; Employer Forum lawyers and law firm hiring staff; all lawyers and judges and community members at OLIO activities including the OLIO Orientation, Clerkship Luncheon, skills workshops, and BOWLIO; law school staff and administrators; and OSB exempt staff.

*Partnerships:* The Affirmative Action Program partners with University of Oregon School of Law; Willamette University College of Law; Lewis & Clark Law School; Portland State University; local bar associations (i.e., Multnomah Bar Association, Lane County Bar Association); the judiciary; public and private practitioners and law firms; specialty bars (i.e., Oregon Chapter of the National Bar Association, Oregon Gay and Lesbian Law Association, Oregon Women Lawyers, Oregon Minority Lawyers Association); Access to Justice Committee; Oregon Law Foundation; KAPLAN testing service; Uniting to Understand Racism Foundation; and OSB Diversity Section.

**Outcome #1: Increase the number of AAP participants.**

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**Allocative:**

The AAP initiated a registration system in the fall of 1998 to achieve more efficient and consistent participation. Any law student or graduate who can help advance the program mission can apply for allocative programs; thus, the AAP Registrants numbers include non-ethnic minorities. The following does not include OLIO participants.

2004-05 – 73 Registrants

2003-04 – 74 Registrants

2002-03 – 73 Registrants

2001-02 – 89 Registrants

2000-01 – 77 Registrants

1999-00 – 106 Registrants

1998-99 – 106 Registrants

**OLIO:**

In academic year 2004-2005, the three Oregon law schools included 232 self-identified ethnic minorities in a total student population of 2,225. Ethnic minorities in previous years were: 2003–246; 2002–180; 2001—218; 2000—224; 1999–236; and 1998–239. Ethnic minority law student enrollment among the Oregon law schools has decreased since 1998. 2003-2005 figures may signal a reversal of that trend. AAP participation figures tend to mirror law school trends.

**Outcome #2: Increase the number of AAP student participants who attend law school and take the bar exam in Oregon.**

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**Allocative:**

Scholarships are used as a recruiting and retention tool. Students admitted to an Oregon law school, as well as upper division law students (non-ethnic minorities are eligible), may apply. The classes under Program Measures analysis—measuring retention in terms of sitting for the Oregon State Bar Examination—run from the start of year 1998 through 2002. The total number of award recipients in this time period was 84, of whom 30 took the bar exam and 18 passed. Seventeen had Oregon addresses in 2002.

Except for a significant rise in 2000, scholarship applications (numbers can represent interest in the program) decreased annually from 1998 through 2002, paralleling the decrease in ethnic minority populations in law schools. The number of scholarships available in 2002 was reduced to meet 2002 budget goals. Because this program is important but lowest priority as identified in 2002, scholarship data appears in greater detail in the following table should the need for budget cuts again become necessary:

Year	No. of Scholarships	No. of Applications	Sat for Bar Exam	Passed	In Oregon Two Years Later
2005	8	48	TBD	TBD	TBD
2004	8	65	TBD	TBD	TBD
2003	8	51	TBD	TBD	TBD
2002	8	61	2	1	1
2001	18	69	2	2	2
2000	18	99	7	4	4
1999	20	74	8	5	5
1998	20	80	11	6	5

**OLIO:**

From 1998 to 2002, 216 ethnic minority law students participated in OLIO orientation. Of these, 120 sat for the bar exam. Sixty-nine passed and 57 have Oregon addresses.

Beginning in 1998, AAP conducted an OLIO orientation and support program designed to acculturate ethnic minority law students to the study and practice of law in Oregon. Participants responded that they would recommend the orientation to other ethnic minority law students. The orientation is the most important OLIO event to solicit interest in the program. Hence, data is tracked in greater detail and appears in the following table:

Year	Entering Students	Upper Division Students	Others*	Bar Exam	Passed	In Oregon Two Years
2005				TBD	TBD	TBD
2004	37	18	34	TBD	TBD	TBD
2003	34	16	25	TBD	TBD	TBD
2002	35	12	43	20	6	6
2001	34	15	33	26	9	8
2000	25	10	30	19	15	12
1999	37	8	14	29	21	15
1998	35	5	13	26	18	16

(\*Lawyers, judges, OSB staff)

**Outcome #3: Increase the number of AAP participants who pass the Oregon Bar Examination.**

Each year, the Bar Exam Grant program provides application fee reimbursement. In 2000, the program was expanded to include a commercial bar preparation course (PMBR) that focused on multi-state testing, traditionally the more challenging aspect of the bar exam for many ethnic minority law students and others.

**Allocative:**

In the 1998-2002 time period, there were 55 grant recipients. Of these, 51 sat for the bar exam (4 withdrew), and 38 became bar members (28 had Oregon addresses in 2006). Four recipients had passed the exam but have not been sworn-in for reasons which may include not having taken or passed the MPRE, not having funds to cover membership costs, etc. An entire grant covers costs for the admissions application fee and the PMBR course. There is no limit to admissions fee awards for applicants who must re-take the exam. Retakers can receive the PMBR course only once. Thus, some applicants had both an AAP Grant and a PMBR Grant; some had either the AAP Grant or PMBR. Individuals are counted only once.

**OLIO:**

Nearly all OLIO functions address the Oregon State Bar Examination to some extent. For example, Summer Clerkship Luncheons include

segments relating law clerk assignments with the Multistate Performance Test.

? There were 270 OLIO participants from 1998 to 2002. Of these, 118 sat for the bar exam; 74 became bar members, of whom 64 had Oregon addresses in 2005.

In 2004, AAP conducted a bar exam workshop for ethnic minority bar applicants. All participants indicated they would recommend the workshop to other ethnic minority bar applicants. Workshop participants who passed the Oregon bar examination number as follows:

2004 – graduated; started 2001 – 2 passed out of 7 participants

2003 – graduated; started 2000 – 2 passed out of 3

2002 – graduated; started 1999 – 3 passed out of 10

2001 – graduated; started 1998 – 11 passed out of 18

**Outcome #4: Increase the number of career placements in Oregon.**

**Allocative:**

The Clerkship Stipend Program awards stipends to top-scoring applicants who help the program achieve its mission. From 1998 to 2002, 85 students received stipends. Of these, 46 sat for the bar exam, and 24 became members within two years of completing law school. (22 had Oregon addresses in 2005.) In 2005, all participants reported a positive experience.

The Public Honors Fellowship Program allocates fellowships to top-scoring applicants who help the program achieve its mission in public interest practice. From 1998 to 2002, there were 35 fellowship award recipients. Of these, 24 sat for the bar exam, and 14 became members. (11 had Oregon addresses in 2006.) Six recipients from 1998–2002 continued employment in public interest law.

**OLIO:**

The First Year Internship Program (FYIP), formerly known as the First Year Honors Program, began in 2001 with employer participation represented by the larger Portland firms. Around 2003, the larger firms began to implement their own “diversity scholarship” programs to attract ethnic minority law students with higher

academic records from across the nation and in Oregon. FYIP employer participation began to decrease as the firms began developing these scholarship programs. A few firms ran their programs concurrently with FYIP. While all FYIP student participants state that this program should continue, this program remains vulnerable as employer participation declines. In the event that FYIP termination becomes an issue, FYIP data is tracked in detail:

Year	Number of Applicants	Number of Employers	Number of Placements	Sat for Bar Exam	Passed	In Oregon Two Years Later
2005	32	7	7	TBD	TBD	TBD
2004	34	5	5	TBD	TBD	TBD
2003	31	5	6	TBD	TBD	TBD
2002	39	5	5	2	0	0
2001	34	9	9	2	2	2

From 1998 to 2002, there were 50 applicants. Of these, 24 sat for the bar exam and 18 became bar members. (15 had Oregon addresses in 2006.) Since its inception, all interns reported finding the program of value and recommended that it be continued.

**Outcome #5: Increase the number of ethnic minority lawyers who remain in Oregon practice for at least five years.**

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This measure relies on data that begins with the Class of 2001 (entering 1998) and retention tracked in 2006.

**Outcome #6: Increase awareness of the value of diversity in the legal profession.**

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Acting as the bar liaison to the Multnomah Bar Association Equality Committee, the AAP Administrator helped to organize a third annual outreach program at Tubman Middle School in Northeast Portland. Both the audience (predominantly African American) and the presenters (predominantly White) experienced an increase in awareness of the value of diversity in the legal profession.

The AAP Administrator was invited to make a presentation on the program by an OSB member who is a law professor at Gonzaga University School of Law in Spokane, Washington. As a result, Gonzaga would like to initiate a sister program and collaborate with Oregon's OLIO, thus expanding the ethnic minority law student community for mutual benefit.

The AAP Administrator also was invited to speak about OLIO at the joint ABA/LSAC Expanding the Pipeline Conference in Houston, Texas. The presentation was very well-received and the administrator has received an invitation to speak in Boston.

**Outcome #7: Assess AAP effectiveness through personal experiences of three participants from the following cohorts: law students from each Oregon school; law staff/faculty/administrators from each Oregon school; lawyers from various practice areas/law firm settings; law firm management; judges; and public participants with ties to the legal community.**

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In preparation for the 2006 AAP reauthorization vote, the AAP will send out a comprehensive survey to all AAP participants since the program's inception. The Affirmative Action Committee is currently reviewing the draft. As an informal test of what members unattached to the Affirmative Action Program think and feel about the program, AAC members were each charged with disseminating 5 surveys to their colleagues. Twenty-two out of a possible pool of 90 (all committee members did not respond to the assignment) attorneys responded as of December 20, 2005. The responses came from metro and rural sectors, and the results were generally positive. The negative responses, however, seemed intensely emotional.

*How great a need is there to increase ethnic/racial minority membership numbers in the Oregon State Bar?* The majority rated the need at least at "some need," with the highest number indicating "great need."

*Assume there is a need to increase ethnic/racial minority membership in the Oregon State Bar. The OSB Affirmative Action Program implements programs to increase those numbers. What do you know about the program?* The majority rated their knowledge from "no knowledge" to "some knowledge," with the highest number indicating "no knowledge."



*Assume there is a need to increase ethnic/racial minority membership in the Oregon State Bar. Who should be addressing such need? From highest to lowest:*

- Law schools
- Oregon State Bar
- Large firms; public legal sector (tied)
- Local bars; private legal sector (tied)
- Small/medium firms
- Metropolitan sector
- Solo practitioners; specialty bars (tied)
- Rural sector
- Other: Elementary and high schools
- Other: Public high schools
- Other: All of the above

*If you wish to be involved with or desired more information regarding the bar's Affirmative Action Program, [indicate desired means of contact, if any]. The vast majority requested no contact.*

*A \$30 bar fee assessment funds the Affirmative Action Program. What is your opinion of the assessment? The vast majority responded "3" (neutral). Five indicated "strongly support." Three indicated "strongly object."*

*What information would you like to know about the Affirmative Action Program? Responses regarded demographic information in the bar and in Oregon counties, inclusion of teenagers, measurements, "everything," and skepticism about the program benefits.*

Board of Bar Examiners—Civil Rights  
BOARD OF BAR EXAMINERS

As of June 5, 1973, there were 453 student applicants and 21 attorney applicants for the 1973 Bar Examination. This total of 474 applicants compares with 368 in 1972, 300 in 1971, and 236 in 1970. Whether this trend will continue is unknown, although reports indicate that the tremendous increase in applicants to law schools over the past several years may be tapering off.

For the second year, the board administered the one-day Multistate Bar Examination to student and attorney applicants. The Multistate examination is now given as a part of the bar examination in approximately 36 states. Student applicants in Oregon also sat for a second day of 12 essay questions.

Bar Examination and grading processes, in Oregon as elsewhere, are undergoing constructive and critical reevaluation. The Oregon board has made significant contributions to the development of the Multistate examination. In addition, through the auspices of the Oregon Council on Legal Education and Admission to the Bar, a closer liaison between the Supreme Court, law schools, and board of bar examiners has been established to facilitate a regular and thorough review of methods and goals. The grading procedure for the essay portion of the examination was revised in 1973 as a part of this ongoing process, to insure that the bar examination is as fair and reliable as possible.

Respectfully submitted,

Board of Bar Examiners

Jonathan A. Ater, Harold D. Gillis, Frank H. Hillen, Jr., Kenneth N. Mercer, Gerald R. Pullen, Hugh Smith, O. Meredith Willem, Jr., Richard L. Bisset, Vice Chairman, William E. Dabbs, Chairman.

CIVIL RIGHTS

The Committee Recommends:

1. That the Oregon State Bar adopt a resolution (Exhibit A) setting forth a Preliminary Affirmative Action Proposal detailing the Bar's commitment and future activities in the following:
  - (a) Encouragement of high school interest in future legal studies;
  - (b) Encouragement of undergraduate studies of pre-law courses;
  - (c) Encouragement of law school-related assistance of minority students;

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Civil Rights

- (d) Continued analysis of bar examination impact upon minority groups' entry into the legal profession;
- (e) Assistance in the placement of new members of the Bar who are from minority backgrounds.

2. That the Civil Rights Committee be instructed to prepare an Affirmative Action Plan in conformity with the Preliminary Action Proposal (Exhibit A) for eventual implementation of approximately three minorities per year through this program into the practice of law in Oregon and report the plan to the 1974 convention for acceptance or rejection by the membership of the Bar.

3. That in preparing the Affirmative Action Program, the Civil Rights Committee concern itself with a long-term program of quality which will reach into the high schools and under-graduate colleges as well as the law schools for appropriate materials with potential for providing law which will provide, primarily from sources outside the Bar, adequate funding for the minority persons who participate therein through the entire period of their participation; which will coordinate and involve education, personnel and institutions at every level of education as well as other personnel and institutions aiding in the success of selection, retention, training, related work experience and placement in the practicing Bar.

4. That the Civil Rights Committee be authorized to commit the Oregon State Bar to the amount of not more than \$500.00 for incurred expenses of any person or persons not members of the Bar experienced and knowledgeable in the preparation of plans and programs in such a way as to comply with the requirements of private and public grants assisting implementation of the Affirmative Action Plan.

DISCUSSION OF RECOMMENDATIONS

During this committee year, the committee continued with the holdover business of legislation on mental commitment safeguards for the 1973 session of the Legislative Assembly and the completion of projects which placed in the hands of the courts and of police personnel Spanish translations of the rights of an accused upon arrest and at initial court proceedings.

New projects for the committee year included a dissemination of resolutions adopted at the 1972 Annual Bar Convention which requested that organized bar groups refrain from meeting on premises which are not accessible to persons due to racial or sexual limitations established by the premises' owners. These resolutions were transmitted to all known organized bar groups through the State Bar Office.

The most extensive new project undertaken was an investigation into the needs of minority students to assure a successful affirmative action program for integration of the Oregon State Bar without lowering Bar standards. In this pursuit the committee heard from and interviewed minority persons who were in law school, who wished to attend law school, who taught prospective law students in undergraduate colleges, and who placed minority persons in jobs. We also interviewed and heard the views of deans and others responsible for admissions to the three Oregon law schools.

Further interviews and recommendations were received from persons who participate in and help plan procedures, programs and funding for educating minority persons aimed at professional careers. It was the feeling of all contributing to this segment of our investigation that the only practical approach for funding would be primarily through grants from private foundations or governmental programs.

The result of this investigation gave the committee hope and inspiration that the minority situation in Oregon could be solved at this stage in history with a minimum of effort and without lowering standards provided the members of the Bar approve immediate planning for an affirmative action program.

It is contemplated that, if Exhibit A is approved by this year's convention, next year's committee will be primarily concerned with the planning stage of the affirmative action program. The planning stage should be completed in time to procure approval of the completed plan from the following year's convention. The plans will provide for continuity of staff for administration of the plan and adequate funding from sources outside the Bar to assure long-term success.

The committee has not overlooked the disproportionate ratio of men to women in the Oregon State Bar. However, the committee advises the Bar to take a "wait-and-see" attitude with respect to this problem because of the large and growing numbers of women presently enrolled in the State's law schools. Hopefully, this problem will largely solve itself. The committee did not have the time to study the problems concerning integration of women at the same time it was studying the needs and solutions for an effective affirmative action plan for minorities. Rather than delay the minorities plan, the committee decided to proceed therewith and recommend a women's affirmative action plan at a later date which would solve the problems of integration peculiar to women.

## EXHIBIT A

## RESOLUTION

WHEREAS the Oregon State Bar has historically had a

non-discriminatory admissions system based on "equal opportunity"; and

WHEREAS cultural disparities and economical disadvantages among many Oregonians make it difficult, if not impossible, to integrate the Oregon State Bar by taking advantage of "equal opportunities"; and

WHEREAS it is the desire of the Oregon State Bar to maintain its leadership in the field of Civil Rights by establishing an affirmative action program aimed at voluntary actual integration of minorities into the practicing Bar without lowering standards of schooling or admission; and

WHEREAS actual integration will not exist until minorities are represented in the Bar membership in approximately the same proportion as in the general population of Oregon; and

WHEREAS it is expected that the process of integration must extend over a period of years in order to adequately prepare sufficient minority persons for active practice in the Bar; and

WHEREAS such a long-term continuous affirmative action will require both extensive and adequate planning and funding if it is to be successful; now, therefore,

BE IT RESOLVED BY THE OREGON STATE BAR:

1. Approval is hereby given to the following Preliminary Affirmative Action Proposal:

## OREGON STATE BAR

## PRELIMINARY AFFIRMATIVE ACTION PROPOSAL

The Oregon State Bar has historically expressed and reiterated its concern with respect to discriminatory conduct within the Bar and the general rights of citizens to be treated equally. Its historic completely non-discriminatory admissions system, recognition and support of its Civil Rights Committee, and adoption of resolutions such as those dealing with the meetings of the Bar in locations exuding discrimination all demonstrate its attention to and concern with the program. Individual members of the Bar have, traditionally, been in the forefront of all civil rights movements in the State, as activists in civil rights organizations, elected and appointed members of political bodies, and vitally interested individuals.

For the purpose of this proposal "minorities" are defined as persons in those racial, ancestral, cultural or ethnic groups which have traditionally suffered and are now suffering disproportionately in our society. They include but are not limited to such descriptions as Blacks, Chicanos, Mexican Americans, Native Americans, Indians and Orientals. The term "negro" means a disproportionate representation of minority persons in all phases of the active practice of law.

Over the past several years, it has become apparent that

cultural disparities and economic disadvantages among many Americans, including Oregonians, make it difficult, if not impossible, for our society to integrate merely by offering all citizens "equal opportunities." The minorities do not have the wherewithal to take advantage of an "equal opportunity." Accordingly, we have come to the realization that particular incentives and encouragements must be introduced in order to obtain actual integration. Programs designed around these methods have been generally entitled "affirmative action."

Certainly, the philosophy of affirmative action has the approval of the courts of the land. In *Griggs v. Duke Power Co.*, 401 U.S. 424, 28 L. Ed.2d 158, 91 S. Ct. 849, the United States Supreme Court said, at 28 L. Ed.2d 163, in discussion of the Civil Rights Act of 1964:

The objective of Congress in the enactment of Title VII is plain from the language of the statute. It was to achieve equality of employment opportunities and remove barriers that have operated in the past to favor an identifiable group of white employees over other employees. Under the Act, practices, procedures, or tests neutral on their face, and even neutral in terms of intent, cannot be maintained if they operate to "freeze" the status quo of prior discriminatory employment practices.

An excellent statement of the law as it stands today was pronounced by Judge Sweigert of the United States District Court for the Northern District of California in *Western Addition Community Organization v. Alhadeo*, 840 F.Supp. 1861, 1882:

It is the law that where the hiring practice of a public agency (even though the agency does not intend to discriminate against minority groups) actually produces a situation in which the percentage of minority group persons employed is grossly and disproportionately less than the percentage of minority group persons in the general population, such effect alone, although it does not necessarily render the method of selection constitutionally defective, does render the method of selection sufficiently suspect to make a prima facie case of unconstitutionality and the use of generalized hiring tests by demonstrating that there is a reasonably necessary connection between the qualities tested in the examination and the actual requirements of the job to be performed.

The Committee is not suggesting that the Oregon State Bar is either guilty of discriminatory intent or in violation of the law. However, neither can we deny that.

Measured in terms of performance, rather than intentions, our Bar is partially segregated. The number of minority members is nominal. The prospect for its integration, measured by the number of minority members now enrolled in Oregon law schools and the resulting success and prospects of their administrations, is bleak. The time has come for the Oregon State Bar to adopt an Affirmative Action Plan.

The thrust of the proposed Plan to integrate the Oregon State Bar, outlined in more detail below would be to:

- (1) Gather in a united and concerted effort with the Bar Association, two undergraduate colleges and the State's three law schools;
- (2) Attract motivated and bright Oregon high school students and young adults to develop an interest and aptitude in legal education;
- (3) Develop particular undergraduate studies and contacts focused on admission to, and successful completion of, an Oregon law school;
- (4) Successful admission to the Oregon State Bar by minority groups; and
- (5) Accomplish ultimate placement into all phases of the active practice of law within our State.

The goal of the Program would be the admission to practice of three persons of the minority community annually until the minority membership in the State Bar increases to the approximate proportion of Oregon's racial and ethnic composition.

The program would attempt to give that tutorial, incentive, social, financial, and professional assistance required to reach that goal. It would coordinate the economic, professional, and educational resources that are now available and seek to supplement them through new and additional means to meet the Plan's goal.

The Program will seek and admit only the qualified there would be no thrust to lower in any way the standards for admission to the State Bar as now or are hereafter established.

The relatively small size of Oregon's minority community coupled with the democratic tradition of our State and its Bar provide another unique opportunity for the Oregon State Bar to assert national leadership in one of the most vital areas affecting American society in the last quarter of this century.

#### The High School Segment

To implement our action program on the high school level, the Committee suggests that this be undertaken in four ways:

First, we believe that interested members of the Bar should agree to meet with minority groups at high schools, principally in Portland, perhaps with an organized group such as black student unions to attempt to open a line of communication between lawyers and high school minority students so as to motivate them to greater academic achievement and preparation for college and ultimately law school. Second, as part of the foregoing and perhaps coexistent with the foregoing, we believe that in those high schools with heavy concentrations of minority students a discussion should be undertaken with faculty to determine how best to motivate such students for better academic achievement. For instance, would it be better for successful minority lawyers, whether in Oregon or from out of state, to act as speakers? Would it be better for former graduates of such high schools who are well known to act as speakers? Would it be sufficient to have members of the Bar who are neither minority nor of well known acclaim to act as members of a speakers' group?

Third, active contact with high school counselors and teachers with potential for law school and practice, is needed.

Fourth, we believe that the Bar should develop a brochure, perhaps with pictorial emphasis which could be handed out to high school students and their counselors. Any efforts of the Civil Rights Committee should be coordinated with the Public Information Committee of the Bar which also handles publication data. We should learn from past experience of all other committees on how best to prepare and circulate brochures if at all possible.

The following is a rough draft of content of such a brochure.

#### *Brochure for High School Segment of Oregon State Bar Action Program*

What is a lawyer? One definition is that a lawyer is a successful student of the law. He or she can be a trial lawyer, a business advisor, a judge, or merely use the training as a legislator or community leader. While doing this, the lawyer usually makes a comfortable living.

What does it take to become a lawyer? Starting in high school, good study habits are a must, and certain precollege courses should be taken. Next, for three or four years, college training in prelaw courses such as English, history, political science, and economics are required. Then, three or four years of law school must be undertaken after which the student must pass the Bar, a test given in Oregon to make sure that a prospective lawyer has sufficient knowledge to represent others.

Like many other positions in society, minorities in our

country have not produced a representative number of lawyers. Now, minority members represent only about 4 percent of those in law schools while minority groups as a whole account for about 16 percent of the United States population. The Oregon State Bar feels that this should change and is starting an action program to encourage qualified Blacks, Chicanos, Indians and others who have not had full opportunities to take courses necessary to get into college, law school, and pass the bar.

What does this mean to the minority high school student? Instead of sliding through easy classes, hard work on courses designed to prepare students for law school should be undertaken. Any student who appears interested in a law career should discuss it seriously with his counselor or teacher. If the student is not sure of a career as a lawyer, he should ask his counselor to suggest someone to talk to. Many members of the Bar would be happy to discuss a law career with high school students.

Competition for entrance to college and law school is tough. It takes a person with a high degree of bull dog tenacity to succeed. But, this does not mean that success is impossible. We feel qualified minority students should have the same opportunities and strongly encourage any interested students to talk to their counselors, seek out lawyers to talk to, and above all, apply their natural intelligence to courses which will prepare them for their desired career.

#### *The Undergraduate Segment*

In the area of undergraduate studies, bringing minority students into a program at a college freshman level is necessary in order to apply the remedial steps and guide current students in the undergraduate program which will maximize the chances of success in law school. This may well have the effect of eliminating any chance of the program having a double standard for law school. And, early selection of candidates, together with a structured course content in undergraduate studies, coupled with adequate financing of the student, could serve to minimize the risk of failure.

Attention by the students involved in the program is bound to occur to some extent and thus there would need to be a sufficiently large program to compensate for this factor. It was felt that at least ten students per year coming into the program were necessary to achieve an end result of three minorities graduating from law school per year. In summary, the role of the undergraduate school is important because it:

- (1) has early contact with potential minority law students;
- (2) allows counseling and remedial steps in an under-

graduate program to maximize success in law school:

- (3) helps avoid a double standard for law school;
- (4) shows early interest in a student and concern for his educational as well as his economic situation;
- (5) serves as a link between high school and law school training. These features are all necessary and serve to enhance probability of successful completion of law school and the Bar exam.

#### The Law School Segment

1. Communication with undergraduate colleges must be begun by The Bar to advise as to what courses are particularly helpful in preparation of minority students for law school and what preparation, if any, prepares students for the LSAT.
2. Admission Policies. The Bar must:
  - (a) Examine present admission requirements and determine if they are valid and realistic. This may involve empirical studies in order to make the determination.
  - (b) Establish goals to increase enrollment of qualified minority students.
  - (c) In meeting the established goals, coordinate with the special program established in the undergraduate colleges pursuant to this affirmative action program.
  - (d) In addition to (c) above, exercise special effort including the use of minority law students, to encourage minorities to seek a legal career.
3. Financial Aid. The Bar must assist in:
  - (a) Implementation of financial aid programs established pursuant to this affirmative action program utilizing existing Federal Wage Supplement Program such as WFIN or other programs to permit the payment of adequate income for student services.
  - (b) Establishment of a special scholarship fund for minority students based upon financial need.
  - (c) Utilization of the law schools' placement bureau in finding part time and summer employment with law firms and other legal related employment.
4. Housing and Counseling.
  - (a) Consideration will be provided by the law schools for the special housing and counseling needs of minority students.
5. Tutoring, Grades and Courses.
  - (a) Minority students must carry the same load and courses as all other students.
  - (1) No courses will be established for minority students and no special grading requirements will apply.

- (2) Tutors will be available for those students desiring such assistance.
6. Preparation for the Bar Exam must be encouraged.

#### Bar Exam

The Committee does not call for change in the bar exam as a part of this proposed program. We are aware of the argument that the bar exam as now administered tends to test for individual qualities of importance to the dominant white society to the exclusion of qualities which may be important to minority group individuals served by attorneys of that society. While this may affect the level of insight and sensitivity of those who become lawyers in this state for the perceptions, views and problems of some of their clients, experience has shown that it has not worked as a bar to admission for minority group members graduating from Oregon law schools. To the best of our knowledge all Black, Chinese and Oriental graduates from Oregon law schools since World War II succeeded in passing the Oregon State Bar exam.

#### Placement

Obviously, an affirmative action program is incomplete unless it ultimately places minorities in the general practice of law in the State of Oregon.

At least two methods of implementing this placement are viable and should be employed by the members of the Oregon State Bar.

Firstly, the Earl Warren Scholarship fund is available to minorities who wish to practice in an area where there are not minority practitioners and it sponsors and furnishes financial underwriting for a period of time for individuals in private practice. Not only should minority students obviously be appraised of this fund, but also it is important to notify practitioners in the state of this fund. It is the opinion of the committee that some practitioners could afford to hire and keep minorities in their law practice by use of this fund. Secondly, members of the Bar should pre-commit themselves to jobs for law students and jobs for graduates who pass the Oregon State Bar examination. Obviously, the older, larger, prestigious law firms in the state who annually hire a number of recent graduates would be appropriate for this role. And, with a goal of only three minority individuals per year entering into the practice through this Bar program, such a pre-commitment should not be overly burdensome.

Along with this, it would be important that established members of the practicing bar, the judiciary and high ranking public officials be appraised of this affirmative action program and be contacted for assistance at times when qualified minorities are in the job application situa-

*Client Security Fund*

From. Their influence and assistance in placement could well help this phase of the affirmative action program.

Respectfully submitted,

Committee on Civil Rights

H. J. Dehan, Hamilton, Jr., William O. Noker, Glenn Walker, Richard J. Brownstein, William H. Ferguson, John F. Weissert, Jr., Betty J. Crozier, Albert L. Kerns, John S. Stewart, John Terry, Jr., Thomas N. Trolis, Secretary; David L. Smedem, Chairman.

#### CLIENT SECURITY FUND

The Committee has no recommendations or proposals. Five claims against the Client Security Fund have been considered by the Committee. The disposition of such claims is as follows:

1. The Committee's report for last year stated that a claim in the approximate amount of \$20,000 was pending. The claim arose from the defalcation of a former member of the Oregon State Bar who resigned and assumed the practice of law in another state. It was reported that the Committee had requested that counsel for claimant attempt to collect the alleged balance due by legal process in the state where the attorney was practicing. Although a curatory effort was made in the sister state by the claimant's counsel to collect from the attorney, the Committee was not satisfied with the action taken because the judgment obtained in Oregon had not been registered in the sister state, which would have established a more effective basis to recover the loss from the attorney.

To date, the Committee has not been advised of any further action taken by the claimant, and, therefore, further consideration of the claim has been suspended.

2. A claim was received in the amount of \$932.60 but was not allowed for the reason that the claimant had not satisfied the requirements of ORS 9.655. This statute requires that either the attorney whose dishonest conduct caused the loss be found guilty of a crime arising therefrom or has had a judgment entered against him in proceedings arising out of the claimed dishonest conduct which caused the loss.

3. Two claims were received arising by reason of the defalcation of a former member of the Oregon State Bar who has resigned. The former attorney served as personal representative of two estates and allegedly converted funds to his own use. Upon investigation, the Committee approved payment of the total amount of both claims. The amounts paid were \$807.58 and \$258.92.

*Continuing Legal Education*

4. A third claim was received by the Committee arising from the defalcation of the same attorney referred to in paragraph 3 above. The claim is in the amount of \$5,660.55 and arose by the alleged conversion of funds given by the claimant to the former attorney for use in the purchase of certain real property. During the course of investigation of the claim, the former attorney undertook to raise the necessary funds to satisfy the claim. Information furnished to the Committee indicated that there was a reasonable prospect that the former attorney would be able to obtain funds to satisfy the claim. Further action by the Committee has been suspended until it is finally determined whether or not the claim will be paid by the former attorney.

Counsel for the former attorney has been put on notice that the Oregon State Bar will expect to be reimbursed for payment of the two claims mentioned in paragraph 3 above under the assignments the Bar holds of the two claims.

A recommendation of the Committee was approved last year to the effect that the Bar should maintain a list of attorneys from different geographical areas in the state who volunteer to represent a claimant against the Client Security Fund and agree to act without fee. The Committee urges attorneys to volunteer for this service.

There is a balance of \$59,982.61 in the Client Security Fund at the present time.

Respectfully submitted,

Committee on Client Security Fund

Peter A. Schwab, Jr., Donald P. Ruller, John W. Gould, James G. Richmond, Orval O. Hager, Chairman.

#### CONTINUING LEGAL EDUCATION

Since the 1972 annual meeting, the CLJE committee has made available to the membership of the Oregon State Bar an educational program of major proportions.

A number of major policy decisions have presented themselves for consideration during the year. A curriculum subcommittee, chaired by Ralph Cobb, has reviewed past, present, and future curricula. Upon the resignation of Willard Bushman as Director of Education for the Bar, the committee has undertaken the responsibility for selecting and recommending a replacement to fill this post. At the request of the Board of Governors, the committee has presented a review of numerous applicants and alternatives.

The final review and decision has led to the appointment of Leonard A. Girard, a Portland attorney, as the new Director of Education. Mr. Girard brings to the Bar a wealth

## I.

WHEREAS the Oregon State Bar resolved in 1974 to adopt an affirmative action program which it expected "to extend over a period of at least fifteen years"; and

WHEREAS the aspirations of that program have not yet been fulfilled, but sufficient time and experience have passed to enable the Bar to refine the purposes and activities of the program; and

## II.

WHEREAS the nature and quality of legal education directly affects the professionalism and competence of the lawyers produced by that education; and

WHEREAS when law students are exposed to diverse attitudes and life experiences in the classroom in the discussion of legal issues, those students achieve a more well-rounded and thorough understanding of the law and the role of lawyers than students who are not so exposed; and

WHEREAS, absent financial, academic, and professional assistance from the Bar, Oregon law schools will not be able to maintain or achieve racial and ethnic diversity throughout the law school program; and

WHEREAS such assistance will maintain and increase the numbers of racial and ethnic minority persons able to attend and remain in Oregon law schools and thereby maintain and increase the diversity in the classroom to improve all Oregon law students' legal education; and

## III.

WHEREAS there are significant statistical disparities between those racial and ethnic minority persons admitted to the Bar and their full participation in the practice of law throughout Oregon, which disparities demonstrate unwarranted barriers to employment in Oregon for these persons; and

## IV.

WHEREAS the Oregon State Bar is a professional organization with a continuing responsibility towards its members and the communities it serves, and to which its members owe a reciprocal continuing responsibility; and

WHEREAS these responsibilities include the need for continuing legal education, service to the communities, and service to the profession; and

WHEREAS, as a self-governing organization, the Oregon State Bar best fulfills those responsibilities if its membership is diverse and broadly integrated,



because diversity and integration ensure viewpoints and ideas representative of and sensitive to all communities served by the Bar; and

WHEREAS financial and other assistance in addition to that available from other sources is necessary to increase the number of racial and ethnic minority persons able to practice law successfully in Oregon, thereby increasing diversity within the Bar; and

WHEREAS, absent such assistance by the Bar, the Bar will not attain broad diversity in the foreseeable future; now therefore,

**BE IT RESOLVED BY THE OREGON STATE BAR:**

That the Oregon State Bar Board of Governors take such actions as may be necessary to achieve the goals of diversity in Oregon legal education and the Oregon State Bar, including but not limited to the following actions:

- (1) That the Affirmative Action Program undertake outreach efforts to interest racial and ethnic minorities in becoming lawyers;
- (2) That the Affirmative Action Program assist racial and ethnic minority law students in financing their legal education;
- (3) That the Affirmative Action Program assist racial and ethnic minority law students in obtaining legal employment both during and following law school;
- (4) That the Affirmative Action Program assist racial and ethnic minorities in preparation for the Bar Examination;
- (5) That the Affirmative Action Program assist racial and ethnic minorities to make the transition from law student to lawyer through mentoring programs and otherwise

**AND BE IT FURTHER RESOLVED**

That the Affirmative Action Program shall end 15 years hereafter unless extended by the Bar;

**AND BE IT FURTHER RESOLVED**

That this resolution supercedes in its entirety the charge of the Affirmative Action Program as adopted in 1974 and as amended in 1977.