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PIPELINE TO LAW LEADERSHIP AND JUSTICE

Furthermore, the legal academy and legal profession must endeavor to break down the institutional barriers that impede access. We are obligated to make a strong investment in the education of children of color. This investment must be made at the elementary school, middle school, high school, and college levels, in order to ensure the matriculation of academically prepared students of color into law school and, ultimately, the profession. In short, we must increase the flow of diverse students into the legal profession's pipeline and patch its pervasive leaks that impede the access of students of color. [ABA Presidential Advisory Council on Diversity]¹

PROPOSITIONS²

- Lawyers account for an overwhelming proportion of our national leaders.
- The legal profession stands at 90% white and is not showing improvement of any significance, indeed some minority groups are decreasing.
- The only profession with a worse diversity record is civil engineering.
- Law firms cannot hire lawyers who do not exist, and the qualified pool is depressingly small. Competing with each other for such a limited group is not a winning strategy.
- Like the practice, law schools compete for a limited pool of applicants presenting high LSAT and other credentials, and they are not admitting sufficient numbers of diverse students to serve the demand for the practice or for leadership of the nation.
- The need to increase the number and competence of minority students moving through the educational pipeline with interest and qualification for admission to law school is of crisis proportions.
- Law practices and associations at all levels have often sought to address this need, but typically episodically, not in a way that is systemic, systematic, and sustained.
- To address these concerns the ABA Presidential Advisory Council on Diversity in the Profession, with the joint sponsorship of the Law School Admission Council, has hosted significant conferences on Diversity in the Pipeline.
- The ABA Presidential Advisory Council on Diversity in the Profession has called for pipeline programs beginning early and extending through the bar exam to the profession.
- Through the Wingspread P20 Consortium, the nation's law schools are working as centers for local pipeline action teams and programs capable of changing the education infrastructure.
- The ABA should bolster its call and resolution for work along the pipeline by using its stature to convene and leverage the intellectual and human resources of the law schools, the bench, the bar, and their associations to support coordinated action-

based pipeline education teams and programs and to secure alliances to impact the educational infrastructure to achieve the goal of an expanded qualified diverse pool over time.

THE TALK —BACKGROUND

Education, business, and our very democracy demand diversity and equality of participation and opportunity. For the legal profession the defining problem is that it remains at 90% white, and the statistics do not suggest improvement.³ As the picture now exists, minority students do not present themselves to professional schools with the same numbers as their white counterparts; fewer graduate from high school and college, and fewer still present high LSAT scores and other application credentials.⁴ In today's competitive climate, law schools are crippled by these numbers in their ability to admit a diverse student body.⁵

Law schools' paralysis is also a crisis in the leadership of the nation. Law school is a significant path to leadership. Twenty five of our forty three presidents, virtually all judges, 53% of the U.S. Senate, and 36% of the House are law school graduates. While law school graduates are disproportionately represented in leadership positions, they are also disproportionately white, showing how closed this important pathway to diversity.

A parallel problem is the lack of civic engagement and knowledge of the democracy.⁶ Our legal system offers a common culture and language that unites us. But it can only be successful in this if the system offers equal access to leadership and justice with proportionate representation in that system. This requires access for all students to a rigorous education sufficient to teach the critical thinking skills and values necessary to relevant involvement in the democracy.

The causes of limited interest in the democracy and of the leaks and inequities along the educational pipeline are myriad— low expectations and aspirations; lack of academic rigor; inadequate relationships, including insufficient high quality teachers and knowing adults; and unsatisfactory access to college information and resources. These leaks appear as early as preschool and continue.⁷ For example, low aspirations among students whose parents did not attend college are clear by eighth grade;⁸ by high school, "Latino and African-American 17-year-old students, on average, have been taught to the same level as White 13-year-old students."⁹ Not surprisingly, those who continue on to college often need remediation and face higher risk of dropping out.¹⁰

The causes for the lack of progress in terms of expanded diversity are also many, including those that fall directly at the doors of law schools and legal organizations. Our work to date in achieving proportionate diversity and in sharing a commitment to education and democracy has not been successful in changing the face of the profession.¹¹ Because the legal community has focused primarily at points along the educational pipeline in proximity to either side of the law school gates, we have failed to act in collaborative partnerships with P-12 and college educators. So too, until recently, our work has been largely sporadic — splash and dash — remarkable for individual programs like Street Law, but lacking sustained, systemic, systematic approaches.

In these ways, we have failed to reach the many diverse students who have leaked out of the pipeline well before they might be interested in the profession and the many others who have not been sufficiently well-educated to present appropriate qualifications to college or professional school. Without concentrated repair efforts, these leaks in the pipeline will continue to limit the number of qualified students all along the way and will

certainly limit the number of qualified applicants for law schools. As our leading firms and corporations demand increased diversity, law schools will not be able to provide the qualified pool.¹² Continuing as we have, competing with one another for a limited number of qualified applicants, is unacceptable.

GAINING TRACTION — WORK TO DATE

Traction in moving the pipeline agenda is evident:

- Work to patch the pipeline has begun through the significant leadership gatherings convened by the ABA, including the recent ABA/LSAC National Pipeline Diversity Conference, November 2005, Houston, TX; ABA Presidential Advisory Council on Diversity in the Profession, Strategic Planning Session, April 2006, Dallas, TX; and the West Coast Regional Workshop on Collaboration, Evaluation & Funding Your Pipeline Diversity Initiatives, September 2006.¹³
- Work is also ongoing through the Wingspread P20 Leadership Pipeline, a law-school centered Consortium of cross-educational teams of P-20 educators and administrators, judges, and lawyers focused on active programmatic involvement across the educational continuum to improve participation, persistence and success of diverse students in high school and college, with the goal of enhancing their aspirations and capacity to move into positions in the legal profession and leadership of the nation.¹⁴

The work begun by the ABA/LSAC Diversity Summits and by the Wingspread P20 Leadership Pipeline Consortium has already shown effectiveness, and its reach is expanding. These approaches add value in creating common ground in both directions along the pipeline. Indeed, just as law schools ensure the diversity of the participants in the future of the profession and access to justice, high schools, middle schools and even elementary schools are what will ensure the future of the law schools. What is needed is an organized way for this collaborative involvement to flourish consistently over time, starting with visible and prestigious change in the academy, the bench and the bar. The ABA authority and convening power suggested here can move the effort forward significantly and quickly to a point where we can anticipate such long-term sustainability and infrastructural change.

Evidence of the ongoing contagion of the work includes:

- Under the leadership of Jim Heiting, and inspired in part by the education work done by Wingspread, the State Bar of California's Presidential Initiative last year was the Pipeline. The resulting State Bar report highlights programs along the pipeline from preschool to retention and promotion in the profession. The California bar has now reorganized itself into a statewide Council on Access & Fairness to pursue this work.¹⁵
- Other state and county bars have taken note of this work and are embarking on similar activities, e.g. the Illinois Diversity Summit held last winter or the upcoming Rocky Mountain Legal Diversity Summit and Los Angeles County Diversity Summit.
- Projects on the ground also continue to gain momentum, e.g. the Cleveland Bar 3RS program where a team of lawyers is in every high school social studies class once a month for an academic year.¹⁶
- New inquires for support for pipeline work also are growing across the country for

work in both urban and rural locations e.g. Samford Law School with Birmingham, Alabama; members of the bar with the State of Hawaii; and community college leaders with the High Desert in California.

GAINING MOMENTUM — GOALS & STRATEGIES

The continued close involvement of those who seek to employ a diverse legal workforce is critical to systemic strategies to expand the qualified pool. To solve ambition and achievement gaps that have prevented economically at risk and diverse students from succeeding in legal education and the profession requires, at a baseline, an engaging, relevant and rigorous education program and effective mentoring relationships.

We know that law-themed education — with its concomitant pedagogy, drama, and rigor — when combined with the sustaining resources of the legal community, can offer the crucial academic rigor and relationship opportunities.¹⁷ We know that collaborative partnerships all along the pipeline are critical, and that, where effectively employed, they have demonstrated success.¹⁸

We also know that lawyers have strong capacity to reach out — to teach critical thinking, to mentor, and to model civic engagement and college and career aspirations and success. Every law student has been part of law’s signature pedagogy that teaches higher order skills in a decidedly interactive and project-oriented methodology. Every law student has learned to “think like a lawyer,” that is, each has already been taught to read and write persuasively, to think critically, and to solve problems.¹⁹ Every law student also has college-going experience. Every lawyer thus offers an example of a promising career-pathway for those who persist. In short, the law’s pedagogy and community embody the new 3Rs— relationship, relevance, and rigor.²⁰

Translating these attributes into sustainable action capable of effectuating change requires the ABA to assume a highly visible, proactive and activist role to unite and make explicit the longstanding commitment to diversity expressed by both the legal and educational communities, taking advantage of their overlapping self-interest in the achievement of a diverse group of students emerging from the educational pipeline. In this approach the ABA can partner with law schools to use their resources and locations to take the lead in leveraging the legal community’s intellectual and human resources through new powerful configurations able to address pipeline achievement and ambition gap issues. From such alliances specific strategies emerge. Most important are those to:

- Incentivize change in the structure of the academy, the practice, and related networks to forge alliances and collaboration all along the pipeline — first between the ABA and bar associations and law schools, then between law schools and colleges and universities, and then between postsecondary and K12 education.

Additionally, programmatic strategies include those to:

- Form a network of collaborative teams to make sure as many students as possible persist in a rigorous and relevant education, buttressed by strong mentoring relationships adequate to present qualified applicants to the nation’s law schools.
- Use proven methods of law-related education and pedagogy, especially law-themed schools and career academies.
- Create an intuitive, user-friendly structure to bring lawyers into classrooms as mentors and participants at all levels.

- Actively capture and effectively evaluate data on all outcomes, and then to urgently promote successes, advocating both for broader adoption of these goals and best practices and for the direction of public and private resources into similar structures.
- Institutionalize the organizational capacity for pipeline work.

GAINING GROUND — THE WALK WITH THE TALK ABA

What makes these strategies different? Teams, teams, teams.

The overall pipeline approach is premised in a delivery system of collaborative teams along the pipeline in local, regional and national configurations, in outreach, mentoring, pedagogy, collaboration, coordination, evaluation, and infrastructural change. Some of these parts exist in some places already, others do not. Their effective coordination and perpetuation do not yet exist. Without a central structure geared toward infrastructural change, diversity efforts are likely to continue as they have been, sometimes remarkably successful and sometimes not; sometimes intense and continuing, sometimes not; often unrecorded, unheralded, and unevaluated. In other words, in the status quo, there is often just the talk; but even where there is the walk, it has little chance of gaining ground. Led and inspired by the ABA, they can gain real ground; with capacity for coordination, collaborative teams can narrow the achievement and ambition gaps in ways that can effectuate both individual and infrastructural change.

What else makes this approach different? Incentives, incentives, incentives.

To move from more talk to a successful walk requires incentives in prestige, funding, and peer involvement. The ABA is well-suited to secure and offer exactly these visible incentives through alliances that offer change in the infrastructure over time. Again, to bring these alliances to fruition will require high-level additional talk, but talk in new venues, in new teams for new partnerships, which teams and partnerships will have the capacity to identify and scale up programmatic success and to have that success achieve permanent influence on the infrastructure.

As the team strategies and incentives play out, the anticipated outcomes are in improved student participation and persistence in a rigorous academic program in a college-oriented atmosphere, then matriculation into college with support and preparation adequate to increase the qualified pool of applicants to law schools who can succeed in law school, pass the bar, and join and lead the profession. Corollary anticipated outcomes include significantly increased participation of the legal community along the educational pipeline, including increased pro bono work as mentors and participants in other programs, together with the systemic and systematic involvement of the nation's law schools as committed coordinators of this effort.

To bring about these results, the ABA is in a unique position to:

- Use its convening power, in connection with ABA Day, to bring together for the first time those members of Congress whose path to leadership was through law school to focus on ways Congress can financially and organizationally support pipeline initiatives as it has initiatives in other professions.
- Use its convening power, together with the Wingspread P20 Leadership Pipeline Consortium, to hold a summit of all law school deans and their invited P16 partners to focus on commitment to the education pipeline P20, preschool to the profession. The summit would highlight ABA support for collaborative work with practical

models for mentoring and team-building that the community could adopt.

- Use its convening power, together with the Wingspread P20 Leadership Pipeline Consortium, to hold a summit of leaders in law-themed education and then leverage its prestige and connections to foundations and potential funders to support successful models of law-themed schools and career academies — programs that can be embedded in public education to change the P12 infrastructure.
- Use these meetings to gain commitments from law schools and leadership to attend to pipeline programs and support them with human and financial capital.
- Leverage these commitments and use ABA connections and relationships with the Bill and Melinda Gates Foundation and others to launch a competitive drive for 19 joint education and law chairs at 19 universities/law schools — a program to change the infrastructure of the academy.²¹
- Join the board and executive committee of the P20 Consortium non-profit corporation, and involve itself directly in the strategic development of this law-centered pipeline outreach initiative.

The incorporation of changes suggested here into the bar and into the academy and standing relationships with P12 can change infrastructure and bring important new partners and knowledge into the efforts to repair the pipeline. From these changes, evidence to date suggests that changes in student capacity and outcomes can be expected to follow. The structures contemplated will allow competent and credible voices to convincingly advocate for this collaborative partnership approach to pipeline repair. It will allow for a culture of evidence that articulates best practices to achieve high student outcomes with a law/civics focus, allowing the work to become self-perpetuating as it is promoted and adopted by other significant leaders. It can be anticipated that public education dollars will flow to support schools in such partnerships, and that the bench and the bar and their associations will be contributors to the coordinating functions of the center.

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ENDNOTES

¹ ABA Presidential Advisory Council on Diversity, *Strategies and Solutions: A Summary Report of the Conference Embracing the Opportunities for Increasing Diversity Into the Legal Profession: Collaborating To Expand the Pipeline (Let's Get Real)* at 10. [Diversity Conference Report], <http://www.abanet.org/op/pipelineconf/PipelinePostReport.pdf>. See also the Resolution of the Presidential Advisory Council on Diversity: "FURTHER RESOLVED, the American Bar Association urges the Law School Admission Council and all state, territorial and local bar associations to collaborate with accredited law schools to combat high rates of minority student attrition and ensure that admissions policies do not result in a disparate impact on acceptance rates of minority applicants.

FURTHER RESOLVED, the American Bar Association urges all state, territorial and local bar associations to collaborate with colleges and universities to develop and support pre-law programs that will increase minority applications to law schools and will increase

the readiness of minority applicants for law school.

FURTHER RESOLVED, the American Bar Association urges all state, territorial and local bar associations to collaborate with elementary and secondary schools to develop and support programs that will increase minority applications to college and will increase the readiness of minority applicants for college." Presidential Advisory Council on Diversity in the Profession, *Pipeline Diversity Resolution*, <http://www.abanet.org/op/councilondiversity/resolution.pdf>; REPORT *Accompanying Resolution # ___, August 2006 House of Delegate*, www.abanet.org/op/councilondiversity/resltn_report_5-06.doc;

² For this section see generally, e.g. ABA *Miles to Go 2004* and *Diversity Conference Report supra* n. 1.

³ *Miles to Go 2004*.

⁴ E.g. Elizabeth Rindskopf Parker & Sarah E. Redfield, *Law Schools Cannot Be Effective in Isolation*, 1 *BYU Education Law Journal* Vol. 2005; ABA Presidential Advisory Council on Diversity in the Profession, *The Critical Need to Further Diversify the Legal Academy & the Legal Profession* (October 2005), <http://www.abanet.org/op/pipelineconf/acdreport.pdf>.

⁵ E.g. despite the increase in the United State's minority population, minority applicants to law schools remain predominantly white. As the ABA Presidential Advisory Council on Diversity concludes: "As our country grows more culturally diverse, it is imperative that we in the legal profession find ways to become more representative of the diverse constituency that we serve and keep pace with the rapidly changing ethnic and racial demographics of the country. On the contrary, recent statistics suggest that the educational pipeline to the legal profession is becoming less diverse for some groups. For example, in academic year 2005-06, African-Americans represented 6.5% of all law students and 30.6% of minority law students. These percentages had sunk from the previous year, when 7.5% of all law students were African-Americans and 35.6% of all minority law students were African-American. Similar drops occurred for Mexican-American and Puerto Rican enrollment during that same period." *Diversity Conference Report supra* n. 1 at 10.

⁶ E.g. The Carnegie Corporation, *The Civic Mission of Schools*, http://www.civicmissionofschools.org/site/campaign/cms_report.html; National Association of State Boards of Education, *Citizens for the 21st Century: Revitalizing the Civic Mission of Schools*, http://www.nasbe.org/publications/Civic_Ed/civic_ed1.html; Intercollegiate Studies Institute, *The Coming Crisis in Citizenship: Higher Education's Failure to Teach America's History and Institution*, <http://www.americancivilliteracy.org/report/summary.html>.

⁷ E.g. Walter S. Gilliam, *Prekindergarteners Left Behind: Expulsion Rates in State Prekindergarten Systems*, Yale University Child Study Center (2005).

⁸ E.g. National Governor's Association, *Early Intervention*, http://www.subnet.nga.org/educlear/achievement/college/college_problem.html

⁹ E.g. The Education Trust, <http://www2.edtrust.org/edtrust>.

¹⁰ E.g. Natl. Ctr. for Educ. Statistics, *The Condition of Education 2004* at 63,

<http://nces.ed.gov/pubs2004/2004077.pdf>.

¹¹ *Diversity Conference Report supra n. 1.*

¹² E.g. Karen Donovan, *Pushed by Clients, Law Firms Step Up Diversity Efforts*, The New York Times (July 21, 2006).

¹³ ABA Presidential Advisory Council on Diversity in the Profession, *The Critical Need to Further Diversify the Legal Academy & the Legal Profession* (October 2005), <http://www.abanet.org/op/pipelineconf/acdreport.pdf>; ABA/LSAC National Pipeline Diversity Conference, November 2005, Houston, TX; *Diversity Conference Report supra n.1*; ABA Presidential Advisory Council on Diversity in the Profession, Strategic Planning Session, April 2006, Dallas, TX; ABA Presidential Advisory Council on Diversity, *Strategies and Solutions: A Summary Report of the Conference Embracing the Opportunities for Increasing Diversity Into the Legal Profession: Collaborating To Expand the Pipeline (Let's Get Real), Addendum, Taking Action*, <http://www.abanet.org/op/pipelineconf/PipelinePostReport.pdf> (starting at 30); *Pipeline Diversity Resolution and Report, supra n. 1*; West Coast Regional Workshop on Collaboration, Evaluation & Funding Your Pipeline Diversity Initiatives, September 2006.

¹⁴ There are 40 law schools involved to date in meetings of the Consortium. Wingspread P20 Leadership Pipeline Consortium, *Wingspread Executive Summary*, http://www.mcgeorge.edu/government_law_and_policy/education_law/media/Wingspread_I-VI_Executive_Summary.pdf; Wingspread P20 Leadership Pipeline Consortium, *Wingspread I-V Compendium*, http://www.mcgeorge.edu/government_law_and_policy/education_law/media/Wingspread_I-V_Compendium.pdf.

¹⁵ State Bar of California, *Report & Recommendations from the Diversity Pipeline Task Force*, http://calbar.ca.gov/calbar/pdfs/reports/2006_Diversity-Pipeline-Report.

¹⁶ Cleveland Bar Association, *3Rs: Rights Responsibilities Realities*, http://www.clevelandbar.org/3Rs_Site/index.htm.

¹⁷ Street Law, *Has this program been evaluated*, <http://www.streetlaw.com/>.

¹⁸ Dennis McGrath et al., *The Collaborative Advantage: Lessons from K-16 Educational Reform* (2005).

¹⁹ William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond & Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* (Carnegie Foundation for the Advancement of Teaching publication forthcoming); Dr. William Sullivan, Senior Scholar, The Carnegie Foundation for the Advancement of Teaching, Presentation, *The Future of Legal Education*, Wingspread VI (Monterey, CA, October 6, 2006).

²⁰ The Bill & Melinda Gates Foundation, *The 3Rs Solution: Rigor, Relevance & Relationship; Wingspread Executive Summary supra n. 14*. See generally Presidential Advisory Council on Diversity in the Profession, American Bar Association, and Law School Admission Council, *Pipeline Diversity Directory*, <http://www.abanet.org/op/pipelindir/home.html>.

²¹ We choose 19 as 10% of the accredited law schools which, as early adopters, could

form the basis for additional participants.