

Final Report
The Florida Bar Special Committee on Non-Voting Board
Appointments

April 30, 2020

HISTORY

Since the Committee's appointment, members met on a number of occasions, analyzing and studying the history and purpose of Standing Board Policy 1.20 (hereinafter "Policy"). There is a long history of an ever-evolving effort by the Bar to periodically review the Board of Governor's (Board) membership composition. Those reviews have included various demographics including geographic, gender, racial and subject matter diversity. There has been a common goal of trying to accomplish balanced representation on the Board reflective of our profession and state.

While the Committee was not able to pinpoint the exact start of the Board's inclusion of specially selected non-voting members, it appears to have been in place since the early 1990's. In the early years, these seats were regarded as "non-voting liaison seats." A similar Special Committee was in place in 1998/99. A review of its recommendations, approved by the committee and submitted to the Board in January 1997, is historically informative. (Minutes of January 24, 1997 are attached as **APPENDIX I**). The five recommendations of the 1998/99 committee were:

- That The Florida Bar that undertake, as a priority, a major project to accelerate the integration of diversity groups into the leadership of The Florida Bar;
- That The Florida Bar not institute seats on the Board specifically designated for women and minorities;
- That The Florida Bar, through the existing system of liaisons between the Board of Governors and groups within Florida, encourage minorities and women to participate in local and state bar activities as a method of developing new leadership for the lawyers of the State of Florida;
- That the present system of allocating Board of Governors seats through a combination of geographically based seats together with certain designated seats and non-voting liaison seats be maintained; and
- That non-voting liaison seats, while being maintained, be monitored to ensure that the designating groups are representative and that the appointed liaisons are actively participating in the activities of The Florida Bar Board of Governors.

A clue to the origin of the current practice is found within the above referenced committee minutes, which note: "several years ago ... then-Board member Manny Crespo got the Board to agree to add CABA as a liaison position, in addition to The National Bar (the chapter was later renamed Virgil Hawkins Bar Assn.) and FAWL liaisons".

The Board adopted Standing Board Policy 1.20 around August 2001, which put into effect the current rule which states in pertinent part:

(d) State, Voluntary or Local Bar Associations or Groups. The bar president may invite representatives of state, voluntary or local bar associations or groups to attend board meetings and may provide them with pertinent portions of the agenda

and relevant back up. Representatives of state, voluntary and local bar associations or groups may not attend executive sessions.

As a result, the practice of appointing liaison positions should have transitioned into presidential invitations under Rule 1.20. Initially, the same three organizations that had served as liaison members on the Board, became what has since turned out to be *de facto* perpetual seats on the Board. In recent years, there has been an enlargement of presidential appointees to the Board. In addition to the original three organizations (VHBA,FAWL,CABA) the current composition of special appointees includes representatives of the Government Law section and the Circuit Judges and County Judges Conferences for a total of 6 special presidential appointments.

PRESIDENTIAL CHARGE

President John Stewart created The Special Committee on Non-Voting Board Appointments in September, 2019 with the charge to review Florida Bar Standing Board Policy 1.20 and to ensure diverse representation and inclusion in the Board's deliberations from all groups from which The Florida Bar could benefit.

COMMITTEE MEMBERS

Thomas Bopp, BOG Member
Lorna Brown-Burton, BOG Member Liaison
Stephen Echsner
Manny Farach
Julie Frey, BOG Member
Leslie Lott
Anisha Patel
Eugene Pettis, Committee Chairman
Larry Smith
Jeffrey Hazen, Staff Coordinator

REVIEW PROCESS

After a thorough study of the history of the Policy, the Committee developed a survey to assess the current and recent past composition of the Board in order to evaluate possible changes in Board composition and the status of diversity and inclusion within the Board. The survey was sent out to 52 current Board members as well as 36 former Board members who had served on the Board within the past 5 years. The Committee received survey responses from 69 % of current Board members and 56% from former Board members.

The key takeaways from the survey were:

- There is a clear pattern of people currently being elected to the Board at a significantly earlier stage of their practice than in the recent past. Looking just at the small sample of former Board members illustrates a younger Board population, including 3 members practicing 10 years or less compared to zero in the earlier sample.

- The current Board is 26% female. This is a few percentage points higher than the former Board over the past five years according to participants.
- There is currently a broad racial diversity on the Board.
- A broad spectrum of substantive legal areas are represented on the current Board, with business law, business litigation, civil and commercial litigation, construction litigation, criminal law, estate planning, estates and trusts, family law, intellectual property, personal injury, probate and commercial transactions each having multiple representatives on the Board.
- The survey also asked about members' sexual orientation, there were some affirmative answers, but it is notable that 14% of individuals preferred not to answer the question of whether they self-identify as LGBTQ, so it was not possible to accurately quantify LGBTQ participation.
- There was a noticeable lack of members from the Government Law Section of the Bar among both groups of respondents.

Overall, the survey indicated considerably greater gender and racial diversity on the Board in comparison to years past. This is likely the result of success in the Bar's diversity and inclusion efforts over the years, and also reflects the overall greater diversity within our profession.

(A copy of the survey and summary of results is attached as **APPENDIX II**)

TOWN HALL MEETING AND DISCUSSION

To obtain input from Bar members, the Committee held a Town Hall Meeting on February 7, 2020 in Orlando during the Bar's Winter Meeting. The event was publicized in The Bar News through several articles and announcements and was well attended. We heard from numerous members on their perspectives regarding the Policy and the Board's overall efforts to achieve diversity and inclusion in Bar leadership. Additionally, the Committee received correspondence from several bar associations voicing their opinions regarding the Policy. (The correspondence received by the Committee is attached as **APPENDIX III**).

Participating Bar members addressed various questions including but not limited to:

- Is the Policy still needed ?
- What process should the president use to make special appointments to the Board ?
- Which organizations should be considered for special appointments?
- How many special appointments should there be?
- Should there be term limits on each appointment?
- Should appointments be on a staggered schedule to allow for rotation of appointments among different organizations?

Among the attendees were representatives from the Florida Association for Women Lawyers (FAWL), Virgil Hawkins Bar Assoc. (VHBA), the Cuban American Bar Assoc.(CABA), the Bar's

Government Lawyers Section, the Tampa and Palm beach County Hispanic Bar Associations, the Council of Voluntary Bars and a public interest lawyer, among others.

Participants were appreciative of the open process, and their opinions enhanced the Committee's understanding of the overall issues and challenges in implementation of the Policy.

Representatives from the original three bar associations that were appointed to the Board (FAWL, VHBA and CABA) spoke of the importance of maintaining their respective seats at the table to voice the concerns and perspectives of their constituents.

CABA's representative stated that the Bar was correct in initially appointing CABA given the strength of its membership and programs and that it has a statewide reach through its law school chapters and members across the state. He pointed out that CABA is "looking out for our members' interest" but claims members are state wide, diverse and of different practice areas. He suggested that the Bar should expand the number of non-voting appointments on the Board rather than contracting or replacing current appointments.

One of the Committee members pointed out that all current Board members from the 11th Circuit are CABA members - meaning there are seven members of CABA on the Board already. In addition, several other organizations, both Voluntary Bar Associations ("VBAs") and Sections have multiple members on the Board. There was discussion about whether a Board member's concurrent membership in a particular VBA or Section was adequate representation of that organization on the Board, as representation on the Board is much broader than a single affiliation. One Committee member felt that it was unfair to expect a Board member, elected to represent his or her entire circuit, be called upon to be a spokesperson for a particular group.

There was significant discussion about the growth of Hispanic organizations across Florida since the original appointment of CABA, and that CABA did not represent the interests of all Hispanics. Representatives from the Tampa Hispanic Bar Association as well as Palm Beach County Bar Association stated that their constituents' issues were not being represented on the Board.

The president of the Tampa Hispanic Bar Association indicated that they have established a state wide Hispanic Bar Association. She advocated a process which would create an opportunity for anyone who wants to serve on the Board in a non-voting seat to apply through some type of formal application process.

A past president of VHBA spoke and shared the fact that his organization is made up of a broad network of affiliate organizations throughout Florida which allows it to represent the interests of a large spectrum of the Bar. He, too, advocated for the expansion of non-voting seats on the Board rather than contraction of the number of seats or assigning seats on a rotating basis. While he believes there has been improvement in diversity and inclusion on the Board he still does not believe the Board mirrors the bar membership the way that it should. He believes VHBA maintaining a seat on the Board is critical to representing the interests of its members within the Bar.

FAWL was well represented at the Town Hall meeting. Its representatives voiced concern with abolishing the tradition of having a FAWL member appointed to the Board. They emphasized their

representation of a growing percentage of women lawyers (38% of Bar members in the state are women) and spoke of their state wide chapters expanding their reach. While the organization is open to men, they stated they do not have as many male members as they would like. The representatives were questioned about the fact that there is an increased number of females on the Board and whether that eliminated the need for FAWL to have a special appointment. The FAWL representatives strongly urged that FAWL's interests could not be represented through an elected Board member because Board members have broader obligations than focusing on the agenda of FAWL. They noted the FAWL representative, as do the other special appointees, has ongoing direct communication with constituents involving both vetting issues in advance of meetings and disseminating information following Board discussions.

A representative of The Florida Bar VBA Liaison Committee addressed the meeting. The representative stated that serving effectively in the capacity of a non-voting board member takes time to develop a level of comfort. She suggested the Committee should consider not only longer terms of service but also that the selection of non-voting seats be opened to a widely publicized application process.

There was discussion of establishing an Advisory Council of the VBA to help vet applicants for Board consideration. Someone also mentioned utilizing the Council of Sections, which is already in place, as well as the VBA Liaison Committee. The Committee discussed these ideas but voiced concerns about making the selection process, which is supposed to be at the sole discretion of the president, both cumbersome and bureaucratic. In addition, a formal application process could place an incoming president in the very difficult position of rejecting what would likely be numerous applicants.

The Committee heard from a government lawyer from Jacksonville who believed that a single government lawyer representative could not adequately represent the interests of their broader constituency; a reflection on the challenge of any one person representing such a broad sector of the Bar. The Committee recognized that maintaining adequate representation on the Board from the government law sector has been an ongoing challenge for the Bar. It is a significant sector of Bar membership (upwards of 16%) and highly diverse in its subject matter. Its members range from state attorneys and public defenders to county and city attorneys and various other positions, each of which have different experiences, concerns and priorities.

The Committee was particularly gratified that it also had the opportunity to hear from a lawyer from Community Legal Services of Mid-Florida representing public interest lawyers. He pointed out that the interest of the legal aid community is underrepresented, if represented at all, on the Board. He urged that there is a need to have a representative of legal aid serving on the Board, perhaps as one of the special appointees. It was also noted that there is a Public Interest Section of the Bar that can be tapped for potential appointees.

Another of the participants brought to the Committee's attention that veterans also constitute an overlooked sector of Bar membership. He noted that there are a significant number of lawyers who are veterans, having unique needs that are unappreciated and under represented on the Board.

Many people the Committee heard from believe that the Bar's progress in expanding diversity on the Board is too recent to take comfort that it is assured without continuous, intentional focus on the initiatives the Board has supported to achieve these levels.

COMMITTEE DISCUSSION

Following the Town Hall Meeting, the Committee continued its discussion and deliberations, taking into account the feedback and issues raised by participants. Committee discussions included consideration of the following points:

- In the years since the original appointments of what have now become ongoing non-voting seats for specific organizations, there have been many programs, initiatives and vehicles to promote truly lasting diversity and inclusion within the profession and the Bar leadership in particular – and these programs have produced results. For example:
 - Leadership Academy;
 - Diversity and Inclusion initiatives within the sections and committees;
 - Council of VBAs; and
 - The addition of a full time staff professional to lead the diversity and inclusion initiatives of the Bar.
- The Committee discussed utilizing the Council of VBAs to select from within its members an appointee to the Board in order to engage the Council and extend the reach of participants. The Committee was concerned that recommending a process under which the Council of VBAs would select a non-voting seat would defeat the purpose of having the input of specific constituencies for specific issues or concerns; which the Committee considered to be one of the main underlying intents of the Policy, and also would undermine the autonomy of the president to make such selections.
- Some Bar members suggested enlarging the Board. However, the Committee recognizes that due to logistical concerns, there is a limit to the number of people that can be appointed under the Policy. The Bar already must accommodate the 52 Board members which include 50 elected lawyers from their respective circuits and the two appointed public members. The facilities available to the Bar have limited capacity and it is undeniable that a Board can become too large to be effective. The State of Florida has over 250 VBAs and the number continues to grow. It is virtually impossible to create a practice under the Policy which includes every unique interest and identity that makes up those organizations.
- It is important to keep in mind that the Policy is only one tool that the president and the Board have available to hear from and connect to Bar members and VBAs. It is imperative that in addition to utilizing the special appointment Policy, the Bar encourage members to continue to become engaged on all levels of the VBA structure which address their particular interests and elevate their voices on issues of importance in order to develop common solutions.
- Given the growth of the legal profession in Florida over the past decades, the implementation of the Policy has become more challenging. There are numerous varying

interests among Bar members and state, voluntary and local associations and groups, making it virtually impossible to include all of them. It may be helpful in the selection process to consider that potential invitees may be categorized as state-wide, regional and local with respect to issues and to organizations; to distinguish between substantive practice areas and type of practice (whether law firm, government, public interest, etc.); and to separately consider identity-based organizations, whether based on race, religion, gender, national origin, or other factors.

- Another point of discussion was the possibility of amending the Policy to limit the president's autonomy. For example, to allow the president to invite, at his or her discretion, the attendance of up to 6 special appointments. One suggestion was a designation of up to (3) state-wide and (3) regional / local organizations or individuals to be seated at any one time. The president would not be obligated to fill each of these potential appointments, nor does this limit the president's ability to invite any number of individuals to address the Board on a particular subject matter. Moreover, the president could make a limited appointment of a person individually or in his or her organizational capacity to address a particular issue, or appoint a person or persons to serve a broader agenda of the Bar during that president's term.
- Given the years' long practice of continuing past appointments from year to year, giving rise to the expectation that certain seats "belong to" certain organizations, it will likely be difficult to end the practice. One suggestion was to establish a sunset on given appointments and inform appointee organizations that their "seat" is secure only for a set term. This is not permitted, however, under the Policy as written, and is unlikely to make it any easier for future presidents to end the practice. Whoever does so will face the same difficulty. Such a policy only delays the inevitable. The Committee believes that the better approach would be for the current Bar leadership, preferably the President, on behalf of the Board, to advise all currently represented organizations of the true intent of the Policy and of the recommendation of the Committee, and decision of the Bar, that the Policy will be followed going forward.

COMMITTEE FINDINGS

Standing Policy 1.20 was not intended to create permanent seats on the Board for any specific constituency or organization. While certain VBA organizations have historically received special non-voting appointments to the Board, such appointments are at the total and singular discretion of the president of the Bar. The president may use the Policy for a limited invitation to a particular meeting or for a longer appointment during that president's tenure. However, once the president ends his or her term there is no entitlement to renewal, and the incoming president has the opportunity and the authority to select which organization, organizations and/or individuals, if any, he or she wishes to invite to a meeting or meetings of the Board during that president's year of service.

Over the years, unquestionably the makeup of the Board has changed dramatically in terms of the diversity and inclusion of elected Board members. There are significantly more women, people of color, Asian, Hispanic and other individuals that historically were underrepresented on the Board.

As a reflection of the success of Bar programs and initiatives, many of these members have risen to leadership positions in the Bar and on the Board.

While the language of the Policy does not provide for “inviting” selected VBAs to permanent non-voting seats on the Board, that has become the practice and operating procedure. The policy provides for inviting organizations to “attend board meetings.” There is no quantitative limitation on the number of board meetings. Under the Policy, the current president may invite representatives of as many groups as he or she decides, to as many or as few Board meetings as he or she determines. But the important point is these cannot be standing or permanent seats to go from year to year under the authority of the Policy without annual reappointment by the incoming president. It is for each president to determine in his or her year.

The Policy does not limit the purpose or objectives of inviting individuals or representatives of other organizations to attend. It does not specify that the Policy is “for the purpose of diversity and inclusion,” or “to be sure certain constituencies are heard from,” or “to balance out the profile of the Board” and thus, does not have such limiting effect. Rather, any president can extend an invitation for any reason during that president’s year in office.

The Committee believes that the Policy is well suited to provide flexibility to Bar presidents to hear from constituent groups who may have an interest in or be affected by current issues and discussions before the Board, and who may contribute to the Board’s understanding and consideration of those issues. The Policy also provides for “goodwill” invitations, to build relationships and cooperation between the Bar and other groups and to promote inclusion of Bar membership in the deliberative process. In fact, the Policy provides for invitations to any group or individual for any reason at the discretion of the president.

RECOMMENDATIONS

The Committee submits the following recommendations and comments for consideration in the continued implementation of Standing Board Policy 1.20. We believe that it was by design that the Policy offered a very limited application. Over the years, it appears that a discretionary policy has turned into one of fixed expectations without much review on how it could be used to address the ever-evolving membership, issues and challenges of the day. It is the hope of the Committee that this review and our recommendations assist future presidents to use the Policy with the intended flexibility to aid in stimulating dialogue to address ever-changing issues and challenges in our profession.

1. The Committee recommends that the Policy be enforced as written, with each president having the authority and discretion to issue such invitations as that president may decide.
2. In order to fulfill the plain meaning of Standing Policy 1.20 each Bar president should determine which organizations and/or individuals, if any, he or she will invite to attend a Board meeting or multiple meetings on a non-voting basis, during his or her tenure.
3. It would be helpful for such appointees to be provided with an orientation at the time of appointment to provide an understanding of the Board, its authority, protocols and

processes. By having appointees informed and comfortable, they would be better able to contribute to the order of business.

4. The Committee recognizes in an ever-growing Bar there are often multiple issues for which the Board could benefit from the input of a special appointee or invitee. Above and beyond the Policy, the president has the power to invite speakers from Bar and other organizations to address the Board on a desired topic at any point in time.
5. In addition, the Committee encourages inviting voluntary bar associations and other Bar and community leaders in an area where the Board is meeting, to attend receptions and events to create an opportunity for Bar members to interact with the Board of Governors and to establish informal lines of communication.
6. The Committee encourages future presidents to utilize the Policy, at least in part, to include in the deliberative process the broader definition of underserved members. As noted above, despite great progress, the Bar has had a chronic under representation of public sector lawyers, veterans, lawyers with disabilities, public interest lawyers and the LGBTQ community. At a time in which there are noticeable gains in some of the traditionally underserved constituencies, there is still much work to be done. The Bar should redouble those efforts. In addition to maintaining the focus and efforts of the Bar's traditional diversity and inclusion outreach on gender, national origin and racial bases, the Bar should continue to assess the current state of its underserved and underrepresented membership. The Bar should have the flexibility to enlarge its focus. Policy 1.20 is a critical tool for each president to use to address current needs.
7. It may be helpful for Bar presidents from time to time, to utilize a survey of the Board (both current and past members), VBAs and Bar members in general to assess the composition of Bar membership, and to make sure that the Board is a reflection of the profession. The results can be used to assure representative voices of a cross section of Bar members on the Board either as elected Governors or presidential invitees.
8. It may be helpful in the selection process to consider that potential invitees may be categorized as state-wide, regional and local with respect to issues and to organizations; to distinguish between substantive practice areas and type of practice (whether law firm, government, public interest, etc.); and to separately consider identity-based organizations, whether based on race, religion, gender, national origin, or other factors.
9. The Committee recommends consideration of amending the Policy to limit the number of appointees, allowing the president to invite, at his or her discretion, up to (3) state-wide and (3) regional / local organizations or individuals to be seated at any one time. The president would not be obligated to fill each of these potential appointments, nor does this limit the president's ability to invite any number of individuals to address the Board on a particular subject matter.
10. Due to the clear intent of the Policy and the Committee's recognition of established but misplaced expectations, the Committee recommends that the current Bar leadership advise

all currently represented organizations of the true intent of the Policy and of the recommendation of the Committee, and decision of the Bar, that the Policy will be followed going forward.

Eugene K. Pettis, Esq.
Haliczer, Pettis & Schwamm, PA

APPENDIX I

MINUTES

MEETING OF SPECIAL COMMITTEE TO STUDY BOARD COMPOSITION

Friday, January 24, 1997

A meeting of the Special Committee to Study Board Composition was convened on Friday, January 24, 1997, beginning at approximately 12:15 p.m., in the Stirrup Room at the Crowne Plaza Hotel in Miami. Presiding was Chair Rutledge R. Liles. Also present at the meeting were: Adam G. Adams, III, Cynthia A. Everett, Robert C. Josefsberg, Andrew "Josh" Markus, Edith G. Osman, John C. Patterson, Jr., S. Austin Peele, D. Culver "Skip" Smith, III and Michael P. Stafford. Absent were Vice Chair Abraham S. Fischler, Bruce B. Blackwell, Thomas M. Ervin, Jr., John E. Fisher and Donald A. Gifford. Also in attendance was Noel G. Lawrence of Jacksonville.

The chair opened the meeting at about 12:45 p.m., beginning with the report of the subcommittee on non-geographic based seats and its recommendations. A motion was made to accept the report of the subcommittee and its five recommendations. Those recommendations are:

1. That the committee recommend to The Florida Bar that it undertake, as a priority, a major project to accelerate the integration of diversity groups into the leadership of The Florida Bar.
2. That the committee not recommend to The Florida Bar the institution of seats on the Board specially designated for women and minorities.
3. That the committee recommend that The Florida Bar, through the existing system of liaisons between the Board of Governors and groups within Florida, encourage minorities and women to participate in local and state bar activities as a method of developing new leadership for the lawyers of the State of Florida.
4. That the committee recommend to The Florida Bar that the present system of allocating Board of Governors seats through a combination of geographically based seats together with certain designated seats and nonvoting liaison seats be maintained.
5. That the committee recommend to The Florida Bar that nonvoting liaison seats, while being maintained, be monitored to ensure that the designating groups are representative and that the appointed liaisons are actively participating in the activities of The Florida Bar Board of Governors.

The motion to adopt the five recommendations carried 8-1. The subcommittee reached a consensus on several issues during its deliberations. Austin Peele asked about the wording of the consensus. He was concerned about how such terms as "democratic", and the statement "all major ethnic and diversity oriented groups other than white males" will be interpreted – should the subcommittee report receive wide dissemination as the report of the full committee. Subcommittee chair Markus said the subcommittee discussion involved only women, blacks, and hispanics. Chair Liles stated the report of the subcommittee should be considered for historical purposes only and not as part of the full committee's report.

In response to an inquiry about how the CABA liaison was created, it was reported it came about several years ago because then-Board member Manny Crespo got the Board to agree to add them as a liaison position, in addition to the National Bar and FAWL liaisons. The original proposal was to have a representative from CABA and one from the National Hispanic Bar alternate each year. However, the Hispanic Bar has not participated. And although CABA received some criticism in the beginning that their organization was not open to all hispanic members, they apparently have since opened their membership to include all hispanics. A discussion about who selects the liaison from FAWL, CABA and the NBA ensued. It was agreed the committee and the Board should not get involved in that. Chair Liles stated the group wants to maintain the current liaison nature of the three non-voting seats (they are not ex officio members of the Board.)

Subcommittee chair Skip Smith distributed suggested amendments to the RRTFB relating to the apportionment of nonresident member seats. He proposes a hypothetical 21st circuit. If this were to be adopted, it would give the nonresident members four seats on the Board, based on 50% of their membership. Also under Skip's formula, the Board would have a floating cap – only 47 members right now. In future years that could fluctuate up to 50 voting seats. According to Skip, the intent 10 years ago was to give the board a fair representation in each circuit in relation to the number of members in that circuit.

The Court changed the Bar's proposal back in 1987 to have 51 Board members, no more, no less. Under the original proposed formula, Dade County would not have had more than 8 seats. The numbers are now adjusted to make the Board's size be 51. Skip's proposed rule amendment language presumed the committee agreed to a cap of 50 voting Board members. Josh Markus pointed out that this committee did not agree to a cap of 50. Rut Liles was concerned that if the Board fluctuates up and down, the Court may take that as an invitation to add more public members as Chief Justice Kogan has suggested. Lep Adams was concerned that the YLD president-elect appears to not be a member of the Board under Skip's proposal. Skip agreed that was inartfully worded and would be changed. He also agreed after reviewing the minutes that the committee did table the motion to set a cap for the Board at 50.

There have been no changes in the Board composition since 1986. Bob Josefsberg suggests Putting any rule change into effect two or three years hence -- to avoid the political maneuvering to save seats that might be lost. However, he thinks Skip's concept is the right direction. The smaller the Board, the better. Edith Osman agreed the concept should be phased in. However, she pointed out that getting smaller is going to hurt the inclusion of diversity and would have a negative effect. John Patterson felt the committee is getting into something it shouldn't. He added there are too many other delicate issues right now, with Constitution Revision issues looming. He favors staying with what the Bar has.

Chair Rut Liles thinks the Bar should stay where it is and not get any larger -- no offense to the out-of-state members. He would like to see the committee go against the 4th OOS seat proposal.

Regarding additional public member seats as suggested by Justice Kogan, Austin Peele made a motion that this committee advise the president that they have reviewed the suggestion to add more public members to the Board, and although not part of this committee's charge, they do not see a compelling reason for it. At least one former public member (Dr. Abe Fischler) has stated that he believes 2 public members are enough. It was suggested to take it under advisement, study the budgetary impact and ask at the next court conference for more information as to why the Chief Justice thinks more public members are necessary. Accordingly, Mr. Peele withdrew his motion and substituted a motion to refer the issue to the next Court conference.

Mr. Peele also made a motion to ask the Smith subcommittee to refigure his proposal based on a 52-Board member cap, including the 4th OOS seat. Mr. Josefsberg suggested adding that the proposal be phased in. A motion to approve the concept, carried (unanimously).

Bob Josefsberg also suggested that the committee consider urging some reimbursement for government lawyers. Edith Osman agreed the time has come to look at the issue again. This committee should make it one of its recommendations. Josh Markus also favors the suggestion. This may also accelerate getting more diversity into the leadership of the Bar. Noel Lawrence commented that he appreciates Bob Josefsberg's suggestion and hopes the Bar will pursue some partial reimbursement for any Board member.

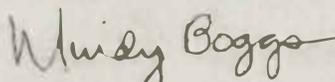
Austin Peele observed that the Board and its leadership have always been sensitive to doing whatever is good for the whole.

John Patterson stated he was pleased to serve on Markus' subcommittee, who everyone agreed did a wonderful job.

The next meeting of the Special Committee to Study Board Composition will be scheduled as a conference call after Skip redrafts his subcommittee proposal.

The meeting was then adjourned at approximately 2:20 p.m.

Respectfully submitted,



Mindy Boggs
Assistant to the President

prez'bdcmp.124



APPORTIONMENT OF BOARD OF GOVERNORS

Assuming Out-of-State Representation Based on Hypothetical Circuit
With Member Population Equal to 50% of Number of Out-of-State Members

As of January 1, 1997 (median circuit population = 1,353)

Pro Forma #3: Exactly 51 seats, including 5 designated seats and 1 designated nonvoting seat

Cir.	Members	(2) No. Seats	(3) Relative Deviation	(4) Adjustment to Rel. Dev.	(5) Guar. Seat	(6) Adj. to Max./Min.	Total Seats	Mbrs/ Seat	Wghtd. Vote/ Mbr. ¹
1	895	1	-33.9%	0	n/a	0	1	895	1.51
2	2,601	2	-3.8%	0 [-1 = +92.2%]	n/a	0 [+1 = -35.0%]	2	1,301	1.04
3	155	0	---	0	+1	0	1	155	8.73
4	2,304	2	-14.0%	0 [-1 = +70.3%]	n/a	0 [+1 = -43.2%]	2	1,152	1.17
5	767	1	-43.3%	0	n/a	0	1	767	1.76
6	2,745	2	+1.5%	0 [+1 = -32.4%]	n/a	0 [+1 = -32.4%]	2	1,373	.99
7	1,069	1	-21.0%	0	n/a	0	1	1,069	1.27
8	766	1	-43.4%	0	n/a	0	1	766	1.77
9	3,379	2	+24.0%	+1 [-16.5%]	n/a	0 [+1 = -37.5%]	3	1,126	1.20
10	760	1	-43.8%	0	n/a	0	1	760	1.78
11	10,697	8	-1.2%	0 [-1 = +12.9%]	n/a	+2 [-20.9%]	10	1,070	1.26
12	1,353	1	0.0%	0	n/a	0 [+1 = -50.0%]	1	1,353	1.00
13	3,690	3	-9.1%	0 [-1 = +36.4%]	n/a	0 [+1 = -31.6%]	3	1,230	1.10
14	289	0	---	0	+1	0	1	289	5.03
15	4,148	3	+2.2%	0 [+1 = -23.4%]	n/a	0 [+1 = -23.4%]	3	1,383	.98
16	234	0	---	0	+1	0	1	234	5.78
17	5,841	4	+4.2%	0 [+1 = -16.6%]	n/a	+1 [-16.6%]	5	1,168	1.20
18	1,230	1	-9.1%	0	n/a	0 [+1 = -55.3%]	1	1,230	1.10
19	817	1	-39.6%	0	n/a	0	1	817	1.66
20	1,497	1	+10.6%	0 [+1 = -44.6%]	n/a	0 [+1 = -44.6%]	1	1,497	.90
OOS	5,193 ²	4	-4.1%	0 [-1 = +27.9%]	n/a	0 [+1 = -23.2%]	4	1,298	1.04
Total	50,210³	39	-----	+1	+3	+3	46	1,092	-----
TOTAL VOTING MEMBERS:		51							

P:\USER\BATTY\DCS\BDCOMPS.TPA\PROFORM3.CHT

1. Relative to weighted vote of members of ideal circuit (median), multiplied by 1,000.
2. 50% of out-of-state member population.
3. Includes 50% of out-of-state member population.

APPENDIX II

Board of Governors Demographic Information Survey

Instructions: Please provide a response for each of the following questions:

1. What is your gender?

Female ___ Male ___

Other: _____

2. With which racial or ethnic group do you identify?

African American ___ Asian/Pacific Islander ___ Caucasian ___ Hispanic/Latinx ___

Other: _____

3. Do you self-identify as LGBTQ+? Yes ___ No ___

4. How many years have you practiced law? _____

5. Which Voluntary Bar Associations were you a member of during your tenure on The Board of Governors?

6. Which sections of The Florida Bar were you a member of during your tenure on The Board of Governors?

7. In what substantive areas of law do you practice?



**Results of the
Board of Governors
Demographic
Information Survey**

January 2020

Results of the Board of Governors Demographic Information Survey

A link to an electronic survey was e-mailed to 52 current Florida Bar Board of Governors and 36 former Board of Governors (those who left the Board within the past 5 years). By the December 9, 2019 cut-off date, 36 completed surveys were received from current Board of Governors (response rate = **69%**) and 20 completed surveys were received from former Board of Governors (response rate = **56%**). The total response rate is **64%**.

In reporting the results, all percentages were rounded to the nearest whole percent (example: 34.5% equals 35%). For this reason, totals may vary from 99 to 101 percent. Note that several questions are “multiple response questions.” This means that respondents were encouraged to check all responses which apply to a given situation. Thus, multiple response questions will not total 100 percent.

1. Which of the following categories best describes you?

<u>Category</u>	<u>Percent</u>
Current member of The Florida Bar Board of Governors	64
Former member of The Florida Bar Board of Governors	36

2. Please check all sections and divisions of The Florida Bar that you are/were a member of during your tenure on the Board of Governors: (MULTIPLE RESPONSE QUESTION – CHECK ALL THAT APPLY)

<u>Section/Division</u>	<u>Current Bd. Member Percent</u>	<u>Former Bd. Member Percent</u>	<u>Total Percent</u>
Trial Lawyers	39	41	40
Business Law	32	29	32
Real Property, Probate & Trust	32	24	30
Solo & Small Firm	23	0	15
Appellate Practice	13	6	11
Out of State Division	13	6	11
Family Law	10	6	9
Labor & Employment Law	10	6	9
Alternative Dispute Resolution	6	12	9
Government Lawyer	6	6	6
Health Law	6	6	6
Tax	6	6	6

(continued on next page)

(continued from last page)

<u>Category</u>	<u>Current Bd. Member Percent</u>	<u>Former Bd. Member Percent</u>	<u>Total Percent</u>
City, County & Local Government Law	6	0	4
Elder Law	6	0	4
Criminal Law	3	18	9
Public Interest Law	3	6	4
Young Lawyers Division	3	6	4
Animal Law	3	0	2
Workers Compensation Law	3	0	2
Administrative Law	0	6	2
Entertainment, Arts & Sports Law	0	6	2
Environmental & Land Use Law	0	0	0
International Law	0	0	0

3. Please list all local/voluntary bar associations that you are/were a member of during your tenure on the Board of Governors:

- 3rd Circuit Bar.
- American Bar Association.
- ABOTA.
- American Association for Justice.
- Asian Pacific American Bar Association.
- Bay County Bar Association. **(2 Responses)**
- BCTLA.
- Broward County Bar Association. **(3 Responses)**
- Broward County Women Lawyers Association.
- Caribbean Bar Association. **(2 Responses)**
- Central Florida Trial Lawyers.
- CFAWL. **(2 Responses)**
- Charlotte Bar Association.

- Clearwater Bar Association. **(4 Responses)**
- Collier Bar Association.
- Coral Gables Bar Association. **(2 Responses)**
- Craig S. Barnard.
- Cuban American Bar Association. **(2 Responses)**
- D.W. Perkins Bar Association.
- Dade County Bar Association. **(8 Responses)**
- Eighth Judicial Circuit Bar Association.
- Escambia Santa Rosa Bar Association.
- F. Malcolm Cunningham, Jr. Bar Association. **(2 Responses)**
- FACDL. **(2 Responses)**.
- FAWL. **(9 Responses)**
- Federal Bar Association.
- Florida Justice Association. **(4 Responses)**
- FTLA.
- George Edgecomb Bar Association.
- Gwen S. Cherry Black Women Lawyers Association. **(3 Responses)**
- Hendry Bar Association.
- Hillsborough Association for Women Lawyers.
- Hillsborough County Bar Association. **(4 Responses)**
- Inn of Court. **(2 Responses)**
- Jacksonville Bar Association.
- Jacksonville Women Lawyers Association.

- Lee County Bar Association.
- Local bar association. **(4 Responses)**
- Manatee County Bar Association.
- MDFAWL.
- Miami Dade Trial Lawyers.
- Monroe County Bar Association.
- National LGBT Bar Association.
- National Trial Lawyers.
- North Central Florida Chapter of the Federal Bar Association.
- Orange County Bar Association. **(3 Responses)**
- Palm Beach County Bar Association. **(2 Responses)**
- Palm Beach County Justice Association.
- Sarasota County Bar Association.
- Southern Legal Counsel.
- St. Andrews Bay Inn of Court.
- St. Petersburg Bar Association. **(3 Responses)**
- T.J. Reddick Bar Association.
- Tallahassee Bar Association.
- Virgil Hawkins Florida Chapter National Bar Association. **(2 Responses)**
- Volusia County Bar Association.
- Volusia Flagler Association for Women Lawyers.
- West Pasco Bar. **(2 Responses)**
- Wilkie D. Ferguson, Jr. Bar Association.

4. How many years have you practiced law?

<u>Category</u>	<u>Current Bd. Member Percent</u>	<u>Former Bd. Member Percent</u>	<u>Total Percent</u>
10 years or less	3	0	2
11 to 20 years	28	7	21
21 to 30 years	41	20	34
Over 30 years	28	73	43

5. What is your gender?

<u>Category</u>	<u>Current Bd. Member Percent</u>	<u>Former Bd. Member Percent</u>	<u>Total Percent</u>
Male	68	71	69
Female	26	23	25
Other	0	0	0
Prefer not to answer	6	6	6

6. With which racial or ethnic group do you identify?

<u>Category</u>	<u>Current Bd. Member Percent</u>	<u>Former Bd. Member Percent</u>	<u>Total Percent</u>
White	76	76	76
African American/Black	9	12	10
Asian	3	0	2
Hispanic	3	0	2
American Indian/Alaskan Native	0	0	0
Other	0	0	0
Prefer not to answer	9	12	10

7. Do you self-identify as LGBTQ+?

<u>Category</u>	<u>Current Bd. Member Percent</u>	<u>Former Bd. Member Percent</u>	<u>Total Percent</u>
Yes	3	12	6
No	79	82	80
Prefer not to answer	18	6	14

8. Please list all substantive areas of law in which you currently practice:

- Accident and Injury Law.
- Administration.
- Appellate.
- Arbitration.
- Bar Disciplinary Defense.
- Business Law. **(3 Responses)**
- Business Litigation. **(5 Responses)**
- Civil.
- Civil Litigation. **(3 Responses)**
- Civil Rights.
- Civil Trial Law.
- Class Action and Product Liability.
- Commercial Litigation. **(13 Responses)**
- Commercial Real Estate.
- Commercial Transactions. **(2 Responses)**
- Condominium.
- Construction Litigation. **(3 Responses)**
- Criminal Law. **(2 Responses)**
- Dependency.
- Diversified Litigation.
- Employment Litigation.
- Errors Omissions.

- Estate.
- Estate Planning. **(2 Responses)**
- Estates and Trusts. **(2 Responses)**
- Family Law. **(3 Responses)**
- Government Law.
- Homeowners.
- Insurance.
- Insurance Defense.
- Insurance Disputes.
- Insurance Litigation.
- Intellectual Property. **(2 Responses)**
- Labor and Employment Law.
- Litigation. **(3 Responses)**
- Mediation Law.
- Medical Malpractice. **(3 Responses)**
- Personal Injury. **(8 Responses)**
- Plaintiff's Personal Injury.
- Plaintiff's Trial Practice.
- Planning.
- Probate. **(3 Responses)**
- Probate Litigation.
- Professional Licensure Defense.
- Professional Malpractice Defense.

- Professional Negligence.
- Real Estate.
- Real Estate Transactions.
- Securities Litigation.
- Tax Controversy.
- Tort.
- Trial Practice Law.
- Trial.
- Trusts.
- Wills, Trusts, Estates.
- Wills.
- Wrongful Death.

APPENDIX III



CUBAN AMERICAN BAR ASSOCIATION

1825 Ponce de León Boulevard, #399, Coral Gables, FL 33134
info@cabaonline.com | www.cabaonline.com | (305) 857-7229

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Haydee Sera

February 6, 2020

John M. Stewart, Florida Bar President
Via Email: jstewart@rosswayswan.com

Dori Forster-Morales, Florida Bar President-Elect
Via Email: dori@fostermorales.com

Dear President John M. Stewart & President-Elect Dori Foster-Morales,

On behalf of the Cuban American Bar Association ("CABA"), I would like to express our sincere gratitude for being provided a non-voting, ex-officio seat on the Florida Bar Board of Governors ("BOG"). CABA highly regards its service as an ex-officio member, and we believe we have demonstrated a history of supporting its members in their leadership roles on The Florida Bar's Board of Governors, the Young Lawyer Division's Board of Governors, and generally within The Florida Bar.

As you know, CABA was founded over 46 years ago and is one of the largest voluntary bar associations in the State of Florida. Our membership also includes CABA student chapters at seven major law schools in Florida. We are not, however, only a local bar organization, as we have members all across the United States and its territories, including the following: California, D.C., Illinois, Louisiana, Maryland, Missouri, New Jersey, New York, North Carolina, South Carolina and Puerto Rico, and last year established a law school chapter at Cornell University. Thus, by providing CABA the opportunity to serve on the BOG you also provide a seat to all these members across the State of Florida and the U.S.

Notably, our membership consists not only of Cuban American lawyers, but also lawyers of all other backgrounds interested in issues affecting the Cuban community, and broader legal and human rights issues impacting minority communities as a whole. Additionally, CABA is leader among the VBA's by creating a committee exclusively dedicated to bring awareness to the mental health issues faced by the legal profession. Last year, the committee held a panel discussion where mental health professionals discussed substance abuse, nutrition, depression and treatment options available. The panelist included the Florida Bar counsel, Jennifer Falcone, who addressed the issues with reporting mental health issues to the Bar. Thus, CABA's non-voting, ex-officio membership on the Board of Governors represents a large section of the minority Florida Bar Members and is very much appreciated.

Lastly, we are in agreement that the BOG and its committee should explore the appointments of its non-voting ex-officio members going forward and we look forward to assisting you in that capacity while we continue our service on the BOG to represent our members.

Again, thank for allowing me to serve this past year as the CABA delegate and please allow me to introduce President-Elect Dax Bello who will serve as the CABA delegate for 2020 and the next ex-officio member of the BOG.

I remain, respectfully yours,

A handwritten signature in black ink that reads "Frances G. De La Guardia". The signature is written in a cursive style with a large, prominent initial "F".

Frances G. De La Guardia
CABA President

CC:

Jeffery Doran

Manager, Voluntary Bar Services

Email: JDoran@floridabar.org

Dear Eugene and Jon:

I am sorry that I was unable to attend the Town Hall meeting last Friday, but I wanted to provide you with my thoughts regarding changes to the Standing Board Policy 1.20 (d) relating to ex-officio members of the Board of Governors. I have been a practicing Florida attorney for over 40 years. I was President of FAWL during the 1994-1995 term and have held various other positions of leadership within the profession. I attended every Board Meeting as an ex-officio member and was an active participant in discussions relating to proposed actions which might have had an unintentional disproportionate effect on the women lawyers or just needed a different perspective than the Board held at the outset. My counterparts in CABA and Virgil Hawkins did the same for these issues.

I am aware that in the years since my presidency there have been many changes to the composition of the Board, with more women and more minorities than ever before. And I respect that every elected Board member has the obligation to represent their circuit constituency to the best of their ability. However, having the voluntary bar associations able to participate, even though not vote, on Bar matters provided an opportunity for the Board to expand their perspective on the issues from a different viewpoint and oftentimes made the discussions and outcome of voting more beneficial to all of the members of the bar. The extra seats for the few ex-officio members do not seem to be unnecessarily burdensome while the failure to have these viewpoints available might result in some backtracking of all of the progress in diversity that has been made in the last 15 years since my presidency. I have observed first hand how the original thoughts and discussions of the Board members on any particular issue to be voted upon modified ever so slightly after a full airing of the issues and conversations with the ex-officio members, and always to the better and always more inclusive rather than exclusive. I have also observed how many of the issues that have been brought to the Board by the VBAs has led the Board to consider issues it never thought to do before. Although I recognize that having members of the VBAs coming to isolated meetings regarding limited issues may on the surface seem adequate to some, the good that these VBAs bring to the table would be lost since it is the building of the relationships with the Board members that allows the VBAs to succeed in doing what the ex-officio position was established to do.

I believe the involvement of the ex-officio members has had an indisputable benefit to the Bar in ensuring that all constituencies are heard and considered with Board policy decisions. Further, as a result of their time as an ex-officio member of the Board, many of these leaders and their members went on to become more involved in Bar activities, became future Board members and rose to leadership positions in The Florida Bar. I think that any diminishment of the ex-officio members ability to participate would in the long term hurt the Bar more than it would help the Bar now by limiting these positions. I don't know what other VBAs might be considered other than the present ex-officio organizations, but it seems that more inclusive is better than not.

Thank you for the opportunity to provide you with my concerns and I am always available if I can be of service to the Bar on this issue.

Caryn Goldenberg Carvo, Esq.
Caryn Goldenberg Carvo P.A.
888 South Andrews Avenue, Suite 301
Fort Lauderdale, FL 33316
Tel (954) 524-4450
Fax (954) 524-4451
Cel (954) 254-8445

Caryn@CarvoLaw.com
carvoem@bellsouth.net

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THE FLORIDA BAR FOUNDATION

To: John Stewart, President

c/o John Doran via email: jdoran@floridabar.org

From: Donny MacKenzie

RE: February 7 Town Hall Event

Date: February 9, 2020

Dear President Stewart,

Thank you for appointing a special committee to review how non-voting ex-officio members are appointed to The Florida Bar Board of Governors by Bar presidents. Apologies for not attending the meeting on February 7 but pressing commitments in Jacksonville prevented my physical presence at the Town Hall Event. I appreciate the opportunity you gave everyone to present written comments by February 10 and am therefore doing so.

The Florida Bar Foundation should be invited to sit on the BOG as a non-voting member because the Foundation has long been a partner and supporter of the Bar. The Foundation's constituency includes both the legal profession and the all of the citizens in need of legal representation. It supports the Rule of Law, believes in an independent judiciary, and believes the practice of law should remain a profession. As such, the Foundation can provide a measured, non-partisan and apolitical perspective to many of the issues facing the Bar and our profession.

Of course, as a non-voting member, the Foundation would not speak unless invited and, understands that its role in that position would be to serve as a resource to the Board and the Bar. As you know, the Bar has designated seats on the Foundation's Board. In addition, the Foundation intentionally seeks to include former BOG members and jurists to continue serving on its board because it recognizes the value added from such persons. We hope the Bar recognizes the value the Foundation adds and in turn creates a permanent, non-voting seat for the Foundation on its Board.

Thank you for the consideration.

Sincerely,

Donny MacKenzie
Executive Director

February 18, 2020

Mr. Eugene Pettis, Chair
Special Committee on Non-Voting Board Appointments
Delivered via email to Jeff Hazen, Staff

jhazen@floridabar.org

Dear Mr. Pettis ...

I am writing on behalf of the Voluntary Bar Liaison Committee, a standing committee of The Florida Bar whose members are appointed for two-year terms by the Florida Bar president. The committee has among its charges to improve communications between The Florida Bar and voluntary bar associations, to coordinate programs of TFB involving voluntary bars, to advise the Communications Department regarding public relations needs and to advise the Board of Governors regarding interpretation of TFB programs to voluntary bars and individual members.

In short, our committee is the pulse of the voluntary bar community and the voluntary bars are the heartbeat of The Florida Bar. As chair, I brought the discussion about the non-voting Board appointments, Standing Board Policy 1.20(d), to our committee on Feb. 6. The following feedback and comments represent a combination of the committee members' discussion during our Winter meeting and a recap of the statements expressed to the Special Committee during the town hall on Feb. 7.

Among the comments heard at the town hall, those made by President Stewart are right in line with those expressed by our committee. While the demographics and make-up of the members of the Board of Governors have changed and improved from a diversity and inclusion perspective there remains a significant underrepresentation in a number of important areas and increased and substantial representation that can be better achieved. Broadening the ability for voices to be heard is the vision that would work best for The Florida Bar, not shrinking it.

I believe we can all agree, The Florida Bar should not miss this opportunity to put voices at the table to help ensure representation of all sectors, interests and perspectives of the Bar. With the voluntary bar community now exceeding 280 different organizations, there is simply no way to include every group. It would be untenable to even include the 20+ ethnic, specialty and diverse interests that are represented by these bars.

It is the opinion of the Voluntary Bar Liaison Committee that all voluntary bars should have representation on the Board of Governors and the best way to achieve this is for a representative to be added to the non-voting member from this sector of the membership to represent the voluntary bar community as a whole. One suggestion would be for a Council of Voluntary Bar Leaders to be created, much like the Council of Sections. The Council would be composed of an experienced voluntary bar leader, likely a past president or qualified, designee from each voluntary bar that chooses to participate. The Council would review a preference form application which would include expenses, time commitment, etc. for a person to attend a BOG meeting, travel, etc. submitted by those bars interested in serving as a non-voting member. From those forms, the Council would discuss and make a recommendation to The Florida Bar president of several names for his/her consideration. The Florida Bar President-elect could then choose one of the bar leaders recommended or select someone else.

I strongly encourage the incorporation of the concept of the creation of a formal application/preference submission form for consideration to open up the pool of potential applicants for non-voting seat appointments. This will allow access to individuals and organizations that have not historically been considered and would allow for a more transparent and democratic process of considering choices for appointment unlike the current process which is exclusively delegated to the President-elect of the Florida Bar to appointment without any "application" process.

Another option to help the Bar strengthen member representation, would be for the Voluntary Bar Liaison Committee Chair or other designated committee member to serve in the non-voting seat allotted for general voluntary bar representation. This person would already have been appointed by the President-elect to the Voluntary Bar Liaison Committee and could be a great asset to keeping the BOG informed of the needs of voluntary bars as we are charged to do.

As part of the quest to strengthen communications between the BOG and voluntary bars, it occurred to several of us during the town hall, that voluntary bars and BOG members could jointly host a Town Hall in their respective circuit to encourage dialogue. Many times just by listening to the members and providing the opportunity for informal conversation with Bar leaders, members get to know each other better and get to know more about their Bar leaders. It was apparent from our two-hour town hall on Feb. 7, that the Bar really does care about and realizes what the members and voluntary bars can bring to the table.

In closing, we appreciate this opportunity to raise awareness among The Florida Bar leaders of the important role voluntary bars play in the future of the legal profession. We are committed to helping The Florida Bar mirror its membership more and respectfully recommend that special consideration be given to the expansion of non-voting seats by including a seasoned voluntary bar leader.

Thank you for the great work of your Special Committee.

Sincerely,

Vivian Cortes Hodz

Vivian Cortes Hodz, Chair
Voluntary Bar Liaison Committee