

IN MEMORY

During the 2019-2021 term, the Supreme Court Committee on Diversity, Inclusion, and Community Engagement lost three of its colleagues: The Honorable Theodore Z. Davis, P.J.Ch. (retired), The Honorable James W. Palmer Jr., J.S.C., and Mr. Morris L. Smith, each of whom left an indelible mark on the Judiciary's Diversity, Inclusion, and Community Engagement Program. This report pays tribute to their collective memory and the longstanding commitment each of them had to the Committee's work and the Court's mission of ensuring equity and access to the courts as well as a diverse and inclusive New Jersey Judiciary.

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**2019-2021 REPORT
OF THE
SUPREME COURT COMMITTEE
ON DIVERSITY, INCLUSION, AND COMMUNITY ENGAGEMENT**

OVERVIEW

The Supreme Court Committee on Diversity, Inclusion, and Community Engagement presents for the Court’s consideration its 2019-2021 report. This report summarizes key aspects of the Committee’s current undertakings under six thematic headings resulting in twelve substantive recommendations. Ten of the recommendations are programmatic in nature, and two of the recommendations suggest rules changes that further advance procedural fairness and consistency in name change matters for adults and children.

The Court’s July 16, 2020 *Action Plan for Ensuring Equal Justice* aims to remove barriers to justice and eliminate the vestiges of institutional bias. It is the hope of the Supreme Court Committee on Diversity, Inclusion, and Community Engagement that this report and its recommendations contribute to the Court’s ongoing work to ensure equal access to justice and equitable and bias-free courts.

The discussions set forth in this report emerge from the Committee’s focus on its mission in the context of the ongoing COVID-19 pandemic and the reality of institutional racism and structural barriers that impact people’s access to justice through the courts. The Committee offers its recommendations in its advisory role

to the Court in furtherance of ongoing efforts through the practice areas, other Supreme Court Committees, and the daily work of the New Jersey Judiciary to facilitate the administration of justice through equitable and bias-free courts.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized initial 'H' followed by a horizontal line and a small flourish.

Hany A. Mawla, J.A.D., Chair
Supreme Court Committee on Diversity, Inclusion, and Community Engagement
January 15, 2021

SUMMARY OF 2019-2021 RECOMMENDATIONS

RECOMMENDATION 2021:01

Post-pandemic, the Court should continue to offer virtual court operations as a means to further reduce barriers to the courts for a range of constituents. The Committee supports the Judiciary's ongoing support of current remote proceedings, identification of potential areas of expansion, and identification of case types where, in the interest of justice, remote participation options should be a mainstay as part of normal operating procedures. The Committee suggests consideration be given, in particular, to matters such as small claims, domestic violence, landlord/tenant (when applicable), bench trials, and some juvenile delinquency cases.

RECOMMENDATION 2021:02

In the interest of expanding access to justice through the courts, the Committee recommends the Judiciary explore the availability of remote court proceedings, consideration of expanding court calendar options to include, for example, night court and periodic weekend court sessions for those dockets best suited including those enumerated in Recommendation 2021:01.

RECOMMENDATION 2021:03

The Committee recommends that the Judiciary undertake a review of its current style guides, as well as external style guides on which it relies, and as applicable update or add guidance in the form of best practices or an online glossary for diversity-inclusive communication standards and model practices

RECOMMENDATION 2021:04

The Committee supports the Judiciary's continuing commitment to producing materials in plain language, to the degree feasible and appropriate, particularly when providing information to the general public. To achieve the desired outcomes, the Committee proposes the Judiciary expand its internal resources in the area of literacy access and "plain language" and that consideration be given to the concept of readability as another recognized marker of "plain language" rather than relying exclusively on grade level. The Committee further encourages the Judiciary's continued use of both traditional video and Whiteboard animation tools to communicate procedural and operational information to the public in non-textual formats.

SUMMARY OF 2019-2021 RECOMMENDATIONS
(continued)

RECOMMENDATION 2021:05

The Committee recommends that the annual attorney registration process include a means by which attorneys can have the option to self-report race/ethnicity information and other demographic data that would be useful in developing a diversity profile of the Bar. These data can be used meaningfully and beneficially by the Judiciary, various Supreme Court Committees, and the Bar Associations for a variety of beneficial purposes, including but not limited to generating availability data which could identify qualified and eligible candidates for potential judicial appointments.

The Committee proposes that such demographic data collection opportunities include language that informs attorneys of the basis for the information requested, explains the safety and security features that prevent an individual from being personally identified via the information submitted, and provides an explanation of the goals and purposes for collecting race/ethnicity and other demographic information via the attorney registration process.

RECOMMENDATION 2021:06

The Committee recommends that the Judiciary review its current method for calculating the availability of racially and ethnically diverse law clerks and explore whether it is more beneficial to adopt the NALP availability rate using the prior graduation year availability or whether it would be more appropriate to create a new standard that factors in both the NALP availability rate and the New Jersey law school graduation rate or some other appropriate combination of factors

RECOMMENDATION 2021:07

The Committee recommends that the Judiciary expand the scope of its focus to identify the barriers to achieving more diverse applicant pools and foster the development of innovative or collaborative solutions to the degree feasible and appropriate.

SUMMARY OF 2019-2021 RECOMMENDATIONS
(continued)

RECOMMENDATION 2021:08

The Committee recommends that the Judiciary expand professional development opportunities for law clerks in key organizational focus areas by establishing a virtual series, offered periodically, relating to the following dimensions of access to the courts and procedural fairness: (1) diversity, inclusion, and elimination of bias; (2) the principles of access and fairness; and (3) basic LGBTQ+ inclusive courtroom practice and quality service.

RECOMMENDATION 2021:09

The Committee recommends that the Judiciary develop and adopt, with input from judges who have successfully supervised law student internships, a standard baseline framework for judicial internships.

RECOMMENDATION 2021:10

To support and expand current internal efforts to enhance the administration of the FD docket, procedural fairness and public confidence, the Committee recommends the establishment of a working group, comprised of a range of internal and external stakeholders such as judges handling the FD docket and attorneys frequently appearing in the FD docket.

RECOMMENDATION 2021:11

Considering the safety concerns and privacy interests of transgender, gender non-conforming, and non-binary people who seek name changes in affirmation of their gender identity as well as others who seek name changes through the courts, the Committee proposes that name change matters be classified as excluded from public access under Rule 1:38. This recommendation establishes operational consistency, advances procedural fairness by eliminating the need to file a motion for sealing in individual cases, and promotes efficiency in the transaction of these matters.

SUMMARY OF 2019-2021 RECOMMENDATIONS
(continued)

RECOMMENDATION 2021:12

The Committee respectfully suggests that Rule 4:72-4 be revised so that the Judgment of Name Change is made effective with the entry of judgment. The proposed change in context would read as follows:

Except as otherwise provided in Rule 4:72-1(b) and (c) regarding consent to a name change for a minor, on the date fixed for hearing the court, if satisfied from the filed papers, with or without oral testimony, that there is no reasonable objection to the assumption of another name by plaintiff, shall by its judgment authorize plaintiff to assume such other name effective immediately ~~from and after the time fixed therein, which shall be not less than 30 days from the entry thereof.~~ At the hearing, plaintiff must present adequate proof of his or her current name. Within 45 days after entry of judgment, a certified copy of the judgment shall be filed with the appropriate office within the Department of Treasury. If plaintiff has been convicted of a crime or if criminal charges are pending, the clerk shall mail a copy of the judgment to the State Bureau of Identification.

2019-2021 REPORT OF THE SUPREME COURT COMMITTEE ON DIVERSITY, INCLUSION, AND COMMUNITY ENGAGEMENT

I. Introduction

The Supreme Court Committee on Diversity, Inclusion, and Community Engagement continues to build on the New Jersey Judiciary’s tradition of systemic advancement, data-informed recommendations for structural and operational improvements, and innovative proactive approaches to ensuring the equitable and bias-free administration of justice. Known since its inception in 1993 as the Supreme Court Committee on Minority Concerns, the Committee was renamed and received an updated charge from the Court, effective September 1, 2019, in recognition of the continuing importance of its mission and the expanding scope of its reach.¹

“The renaming and updated charge reflect the Court’s recognition that the Committee’s focus ha[d] expanded beyond [narrowly-constructed race and ethnicity categories] and ... current[ly] ha[s] grown to encompass religious, social, cultural and economic non-majority groups and addresses access to justice issues relating to sexual orientation and gender identity,” employing an intersectional lens of analysis to its work where applicable. (July 18, 2019 Advisory Letter of the Administrative Director of the Courts to the Committee Chair)

¹ The New Jersey Supreme Court established the Committee on Minority Concerns as a standing committee in 1993 to implement the recommendations of the Supreme Court Task Force on Minority Concerns.

The updated charge reflects the contemporary contexts in which the Committee addresses systemic barriers to justice, structural bias, and the historic vestiges of exclusion and marginalization relating to race, ethnicity, poverty, and other aspects of identity and experience. In this context, the Committee works:

- to assess the availability of court services and supports (including for self-represented litigants) in relation to racial, ethnic, religious, social, economic, sexual orientation, gender identity, and cultural inclusion;
- in consultation with Judiciary practice divisions, with non–Judiciary partners, and with others to address specific issues as well as those that exceed the scope of any individual practice division, to develop policy recommendations to improve and/or supplement existing operational protocols;
- to facilitate public outreach in areas including court access and fairness, job recruitment (for all racial, ethnic, religious, social, economic, and cultural groups), Criminal Justice Reform, and Municipal Court Reform;
- to serve as a liaison between the Judiciary and community organizations as requested by the Supreme Court or the Administrative Director; and
- to respond to questions posed by the Supreme Court as well as ongoing areas of interest and present study proposals for review and endorsement by the Administrative Director and the Court.

The updated charge both supplements and extends the Committee’s longstanding mission.²

² The Committee’s original charge included assuring permanent oversight and coordination of Court-approved initiatives; enhancing competency and awareness of court personnel on issues regarding equal access and treatment; assuring public accountability and responsibility; heightening public understanding of and access to

The 2019-2021 biennial report is the first report of the Committee since receiving its updated name and charge. The 2019-2021 term has been a full and engaging term.

The unprecedented challenges facing the Court due to the COVID-19 pandemic presented additional opportunities for the Committee to contribute to the Judiciary's efforts to address access to the courts concerns in the context of pandemic-necessitated operational modifications. The dual crises of COVID-19 and the murder of George Floyd and other racially-motivated acts of violence and bias have shaped the Committee's work this term and informed its recommendations.

In this context, the Committee has restyled its report framework, expanding on the thematic/interdisciplinary approach engaged over the course of several recent report cycles and continuing to underscore the intersectional nature of this work. This report presents selected areas of focus, drawn from the range of issues and concerns the Committee examined and considered during this term.

II. The Digital Divide, Virtual Court Operations, and Technological Opportunities to Advance Access to Justice through the Courts

Background

A new Pew Research Center survey conducted in early April [2020] finds that roughly half of U.S. adults (53%) say the

the judicial system; increasing minority representation in various areas; and interfacing with other branches of government.

internet has been essential for them personally during the pandemic and another 34% describe it as “important, but not essential.”

As Americans turn to the internet for critical purposes, there are rekindled debates about how the digital divide – that is, the gap between those who do or do not have access to technology – may hinder people’s ability to complete everyday tasks. (Emily A. Vogels, Andrew Perrin, Lee Rainie and Monica Anderson, “53% of Americans Say the Internet Has Been Essential During the COVID-19 Outbreak,” April 30, 2020)³

The access to technology gap, also known as “the digital divide,” has been a longstanding interest of the Committee in the context of equal access to systems and services. The digital divide is a pressing issue, particularly as it concerns economic disparity. Indeed,

[t]hirty years after the debut of the World Wide Web, internet use, broadband adoption and smartphone ownership have grown rapidly for all Americans – including those who are less well-off financially. But even as many aspects of the digital divide have narrowed over time, the digital lives of lower- and higher-income Americans remain markedly different. (Monica Anderson and Madhumitha Kumar, “Digital Divide Persists Even as Lower-income Americans Make Gains in Tech Adoption,” May 7, 2019)⁴

³ <https://www.pewresearch.org/internet/2020/04/30/53-of-americans-say-the-internet-has-been-essential-during-the-covid-19-outbreak/>

⁴ <https://www.pewresearch.org/fact-tank/2019/05/07/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/>

The necessary operational modifications resulting from the COVID-19 pandemic, such as virtual/remote court proceedings and work from home, immediately brought the realities of the digital divide to the forefront. The Committee considered the realities and nuances of the access to technology gaps in depth over the course of several months. This review process and related discussions illuminated the range of ways in which the digital divide is experienced and the variety of contexts in which the access to technology gap impacts people's lived realities. Unsurprisingly, the differences in access to technology trend along income lines.

Roughly three-in-ten adults with household incomes below \$30,000 a year (29%) don't own a smartphone. More than four-in-ten don't have home broadband services (44%) or a traditional computer (46%). And a majority of lower-income Americans are not tablet owners. By comparison, each of these technologies is nearly ubiquitous among adults in households earning \$100,000 or more a year.⁵

However, the digital divide is not always a matter of economics and can be a matter of geography, familiarity, comfort, and sometimes even personal choice. The digital divide cannot be viewed monolithically or as an insurmountable obstacle. In the context of access to courts, the impact of the access to technology gap falls into two primary categories: (1) people with limited or no access to hardware and

⁵ Ibid.

broadband for purposes of transacting court business such as the completion of forms such as fillable PDFs, and (2) people with limited access to mobile devices lacking sufficient data in order to interface with the courts whether through virtual services, court proceedings, transactional applications, social media, SMS text messaging, and the internet.⁶

Recognizing these two distinctions within the access to technology gap, it is important to understand the different ways in which people with access to technology utilize the technology they do have. The following offers one example that is highly relevant to digital divide concerns relating to court access discussions:

As of early 2019, 26% of adults living in households earning less than \$30,000 a year are “smartphone-dependent” internet users – meaning they own a smartphone but do not have broadband internet at home. This represents a substantial increase from 12% in 2013. In contrast, only 5% of those living in households earning \$100,000 or more fall into this category in 2019. This reliance on smartphones also means that the less affluent are more likely to use them for tasks traditionally reserved for larger screens.⁷

Understanding the nuances of the access to technology gap is helpful to identifying access to services challenges and potential solutions. A detailed

⁶ This group also includes the smaller population of people without access to smartphones, such as those using “flip-style” phones.

⁷ Ibid.

understanding provides a path to better leveraging technology access that is more readily available to foster optimal communications between the court and community. Further, understanding the factors that contribute to or shape technology access is also helpful in remedying access gaps.

Discussion

The New Jersey Judiciary continues to show great leadership in bridging technology access gaps to minimize the impacts of the digital divide and facilitate remote access to court services and programs. Because of the Judiciary's proactive and broad-reaching approach to bridging the access to technology gap to ensure access to the courts, in particular during the COVID-19 pandemic, the result has been highly successful virtual court operations that have facilitated litigant participation and reduced defaults and failures to appear.⁸ The resulting efficiencies in particular for litigants remains to be fully measured, but early observations include the ease with which an hourly wage earner, single parent with childcare challenges, and residents of public transportation deserts can more readily participate in court proceedings, often utilizing a video chat feature on a smartphone, without the attendant logistical stresses, such as travel and time off from work, that in-person

⁸ The National Center for State Courts highlighted the New Jersey Courts during the earliest stages of the pandemic for the notable reductions in non-appearances and failures to appear in certain dockets.

appearances often include. The availability of a range of remote participation options for a broad array of court proceedings provides a future roadmap for integrating virtual participation into long-term routine court operations in a number of areas.⁹

RECOMMENDATION 2021:01

Post-pandemic, the Court should continue to offer virtual court operations as a means to further reduce barriers to the courts for a range of constituents. The Committee supports the Judiciary’s ongoing support of current remote proceedings, identification of potential areas of expansion, and identification of case types where, in the interest of justice, remote participation options should be a mainstay as part of normal operating procedures. The Committee suggests consideration be given, in particular, to matters such as small claims, domestic violence, landlord/tenant (when applicable), bench trials, and some juvenile delinquency cases.

Recognizing the scheduling efficiencies within remote operations and the benefits to the operation of the courts, the bar, litigants, and witnesses, the Committee also discussed the consideration of alternative court schedules such as evening court calendars and if feasible occasional weekend courts. The notion of “non-bankers’ hours” for governmental entities is no longer an abstract concept:

⁹ The National Center for State Courts has provided a centralized repository of resources relating to court operations during the pandemic and digital divide. <https://www.srln.org/system/files/attachments/NCSC.All%20Resources.11.18.20.pdf>. In addition, the Committee notes the valuable resources offered by Casey Family Programs regarding virtual proceedings and child welfare matters. <https://www.casey.org/virtual-court-resources/>

Night courts already operate successfully in many of New Jersey’s municipalities and weekend courts take place for purposes of first appearance since the implementation of Criminal Justice Reform (“CJR”) when holidays necessitate them. The benefits of increasing access, in addition to reducing backlog as the courts emerge from the pandemic, support consideration of a range of court calendar options coupled with continued remote court proceedings.

RECOMMENDATION 2021:02

In the interest of expanding access to justice through the courts, the Committee recommends the Judiciary explore the availability of remote court proceedings, consideration of expanding court calendar options to include, for example, night court and periodic weekend court sessions for those dockets best suited including those enumerated in Recommendation 2021:01.

III. 21st Century Language for a 21st Century World

Background

“[T]he law lives through language and we must be very careful about the language we use.”¹⁰ For courts the significance of language and the consequences of words extend beyond in-court interactions with the public and the bar to judicial writing and expression. The Committee’s discussion of the need for “21st century language for a 21st century world” focuses on the ways in which the constantly evolving diversity of our state requires thoughtful consideration of the ways we

¹⁰ Justice Anthony Kennedy, The Supreme Court – Kennedy Interview Part 3 at <https://www.lawprose.org/bryan-garner/videos/supreme-court-interviews/justice-anthony-kennedy-supreme-court-of-the-united-states-part-3/>

employ language and communicate in a diverse and inclusive world, administer justice, and deliver court programs and services.

A focus on *diversity-informed inclusive language* guided these discussions. *Diversity-inclusive language* as used here by the Committee provides multidimensionality to the generic concept of *inclusive language*. *Inclusive language*, which is often used in reference to gender, is generally defined as the use of language and terminology that is broadly inclusive and does not explicitly or implicitly exclude or marginalize people or groups. *Diversity-informed inclusive language* also seeks to ensure that individuals are not reduced to labels used to reference primary aspects of identity, particular when the language and terminology is used by a speaker/author whose identity is different. *Diversity-informed inclusive language* also functions mindful of the impact of language and terminology on third party observers.

Discussion

A. *Advancing Procedural Fairness through Inclusive Language*

There is a notable body of literature and commentary on the concept of inclusive language as it relates to gender, e.g., using gender-inclusive terms such as “counsel” rather than using gendered honorifics, “foreperson” rather than “foreman/forewoman, ” and “spouse” rather than “husband/wife. ”

Modern legal writing no longer uses the masculine generic, i.e., using “men” to refer to “all people.” The New Jersey Judiciary has been a leader in revising forms and informational publications to be inclusive by removing gendered language in favor of inclusive terms such as spouse, parent, and litigant. Within the framework of the Diversity, Inclusion, and Community Engagement focus, the concept of *diversity-informed inclusive language* extends also to race, ethnicity, sexual orientation, and gender identity. The Judiciary offers general guidance to judges and staff through a range of training and professional development contexts with a focus on transactional and procedural interactions. However, the Committee notes there are specific judicial functions where judges have indicated further guidance and standardization can aid in promoting the principles of access and fairness and further fostering public confidence in the courts.

Judges strive to be thoughtful and respectful in speaking and writing about the litigants involved in the cases before them. To that end, judges have a vested interest in expanding their knowledge base of *diversity-informed inclusive language*. Some practical examples include (1) narrating factual findings with respect, sensitivity, and precision;¹¹ (2) referencing race and ethnicity where it is relevant to the outcome

¹¹ The Committee is mindful of the many contexts in which judges must reference a record verbatim, regardless of whether the language in the record is diversity-minded or appropriately stated as to primary aspects of identity such as race, gender, sexual orientation, and gender identity. The Committee is equally aware that there are many mechanisms available, particularly in writing, that balance the procedural

of the case using the modern lexicon; and (3) adopting judicial writing standards that eliminate words that have racist histories.

Practical examples of these areas for resource development include understanding the use of the terms *Black* and *African American* and the contexts in which one term versus the other is more precise and accurate, when to speak of *sexual orientation* and *gender identity* rather than refer to *LGBTQ+ people*, and when speaking of LGBTQ+ issues when to specifically make references either to people who are lesbian, gay, and bisexual or to people who are transgender.

There are simple diversity-informed inclusive writing strategies that can provide for the necessary accuracy and precision, do not result in awkward or unnecessarily complex writing, and offer clarity in terms of the diversity dimensions of the content. Reexamining style guides and exploring other strategies for a variety of written judicial documents can be a valuable point of departure. Judicial training

requirements while ensuring readers understand that the cited language does not reflect the Court's view on diversity and inclusion. As a positive example of one such tool, the Committee refers to Footnote 2 in SONIA DOE, a pseudonym v. New Jersey Department of Corrections. This example illustrates an effective way to strike this balance and limit the harms of the non-respectful language in the record as related to the gender identity of the litigant in the referenced matter.

<https://njcourts.gov/attorneys/assets/opinions/appellate/unpublished/a5101-18.pdf>

and programming on the history and evolution of language can also be a valuable tool to eliminate the use of language that has prejudicial histories.¹²

RECOMMENDATION 2021:03

The Committee recommends that the Judiciary undertake a review of its current style guides, as well as external style guides on which it relies, and as applicable update or add guidance in the form of best practices or an online glossary for diversity-inclusive communication standards and model practices.

B. Advancing Language Access through Expansion of Plain Language

The Committee also considered the Judiciary’s continuing commitment to producing materials in plain language particularly when providing information to the general public. The Judiciary has been increasingly mindful to consider the use of “plain language” particularly for external facing written, online, and video materials intended for the public. Although there is no formal directive or policy in place, there is the general practice, expanded over the course of the past five years, of having the Office of Communications and Community Relations review all public-facing forms, instructions, publications, and videos for plain language. While no specified standards have been formally promulgated, Judiciary staff are guided by general goals as to grade level (as measured by certain online tools) and strategies in the context of the promulgation of forms that utilize succinct and using straightforward terms. These efforts are yielding positive results.

¹² Consider, for example, the terms “blacklisting” and “grandfathering.”

As these efforts continue, the Committee recommends the Judiciary continue to expand the resources on which it relies in this area, including expanding beyond the use of generic web-based tools and that, in addition to grade level, consideration also be given to the measure of *readability*, which some literacy experts propose is a more effective measure of the usefulness of a writing than grade level alone. In addition, the Committee believes it is important in the context of diverse literacy levels to continue offering non-written information to assist court users. To that end, the Committee encourages the Judiciary’s continued use of both traditional video and Whiteboard animation tools¹³ to communicate procedural and operational information to the public.

RECOMMENDATION 2021:04

The Committee supports the Judiciary’s continuing commitment to producing materials in plain language, to the degree feasible and appropriate, particularly when providing information to the general public. To achieve the desired outcomes, the Committee proposes the Judiciary expand its internal resources in the area of literacy access and “plain language” and that consideration be given to the concept of readability as another recognized marker of “plain language” rather than relying exclusively on grade level. The Committee further encourages the Judiciary’s continued use of both traditional video and Whiteboard animation tools to communicate procedural and operational information to the public in non-textual formats.

¹³ One example of the Judiciary’s use of Whiteboard animation is viewable online at https://www.youtube.com/watch?v=W_gm7pyEuIg&feature=youtu.be.

IV. Equity, Diversity, and Inclusion

This section, which in prior terms was presented under the heading of “Minority Participation in the Workforce,” addresses the concepts and goals of equity, diversity, and inclusion as related to the Judiciary workforce. This term the Committee opted to focus on several select areas of discussion rather than reporting an expanse of general demographic data. Focusing on equity, diversity and inclusion, this section includes brief reporting and summary analysis of demographic data on the diversity of the bench; an expansive review of the Judiciary’s model Law Clerk Program; a discussion of opportunities for deeper level of engagement in data analytics specifically relating to equity, diversity, and inclusion within the workforce; and an initial overview of the concept of “the workforce of the future” in the present context of the COVID-19 pandemic.

A. Diversity on the Bench

1. Historical Overview

For decades, the biennial report of the Committee on Minority Concerns stated: “To date, no woman of color has been nominated to the Supreme Court.” This term the Committee is exceptionally pleased to note the nomination and confirmation of Justice Fabiana Pierre-Louis as an Associate Justice of the New Jersey Supreme Court. The historic dimensions of this appointment have been well-chronicled by numerous media outlets, but the Committee would be remiss if we did

not also document here the significance of Justice Pierre-Louis’ appointment to the Court. The confirmation of Justice Pierre-Louis, the first woman of color to serve on the New Jersey Supreme Court, is rightly a celebratory moment and affirmation of the collective will to continue to expand diversity, inclusion, and representativeness on the New Jersey Supreme Court.

2. Current Snapshot

The Committee highlights here several select data views regarding the current diversity of the state court bench. In presenting these data, the Committee notes that references in this section to *racial and ethnic minorities*, or *minorities*, and the use of the race and ethnicity categories as listed correspond to the terminology in the tables and charts provided by the EEO/AA Unit, all of which correspond to the U.S. Equal Employment Opportunity Commission (“EEOC”) reporting categories. Following the race/ethnicity and gender data for each level of court, the Committee places these data in context by considering the data in relation to comparative data for the years 2000 and 2010.

**Table 1. New Jersey Judiciary
- Justices and Judges By Court, Race/Ethnicity and Gender
As of December 28, 2020¹⁴**

	Total	Total Minorities		White		African American/ Black		Hispanic/Latino(a/x)		Asian/Amer. Ind/ NHOPI*	
		#	%	#	%	#	%	#	%	#	%
Supreme Court											
Male	4	1	14.3%	3	42.9%	0	0.0%	1	14.3%	0	0.0%
Female	3	1	14.3%	2	28.6%	1	14.3%	0	0.0%	0	0.0%
Total Supreme Court	7	2	28.6%	5	71.4%	1	14.3%	1	14.3%	0	0.0%
Appellate Division											
Male	21	4	12.1%	17	51.5%	3	9.1%	1	3.0%	0	0.0%
Female	12	2	6.1%	10	30.3%	1	3.0%	1	3.0%	0	0.0%
Total Appellate Division	33	6	18.2%	27	81.8%	4	12.1%	2	6.1%	0	0.0%
Superior Court, Trial Division (excluding Appellate)											
Male	235	26	7.1%	209	57.1%	13	3.6%	9	2.5%	4	1.1%
Female	131	40	10.9%	91	24.9%	21	5.7%	17	4.6%	2	0.5%
Total Superior Court, Trial Division	366	66	18.0%	300	82.0%	34	9.3%	26	7.1%	6	1.6%
Tax Court											
Male	6	0	0.0%	6	54.5%	0	0.0%	0	0.0%	0	0.0%
Female	5	1	9.1%	4	36.4%	0	0.0%	0	0.0%	1	9.1%
Total Tax Court**	11	1	9.1%	10	90.9%	0	0.0%	0	0.0%	1	9.1%
Total All Judges											
Male	266	31	7.4%	235	56.4%	16	3.8%	11	2.6%	4	1.0%
Female	151	44	10.6%	107	25.7%	23	5.5%	18	4.3%	3	0.7%
Total All Judges	417	75	18.0%	342	82.0%	39	9.4%	29	7.0%	7	1.7%

¹⁴ Chart Notes: * NHOPI = Native Hawaiian/Other Pacific Islander; ** The Tax Court total includes four judges who are splitting duties between the Tax Court and vicinage Superior Court: one white female judge (Bergen County General Equity Division), one white female judge (Burlington County General Equity and Family Divisions), one white male judge (Cumberland County Civil Division), and one white male judge (Morris County General Equity). These judges are not included under the Superior Court section of this table.

Table 1. New Jersey Judiciary - Justices and Judges By Court, Race/Ethnicity and Gender, As of December 28, 2020 present race/ethnicity and gender¹⁵ information for all judges by court level. In summary, *Table 1* shows the following:

- Two of the seven justices on the Supreme Court are people of color (one African American/Black¹⁶ and one Hispanic/Latino) and three are females.
- Six of the thirty-three judges in the Appellate Division are people of color (four African American/Black and two Hispanic/Latino(a/x)) and twelve are females.
- Sixty-six of the 366 judges in the Superior Court-Trial Division are people of color (thirty-four African American/Black, twenty-six Hispanic/Latino(a/x), and six Asian/Amer. Ind/NHOPI*) and 131 are female.
- One of the eleven judges in the Tax Court is a person of color (Asian/Amer. Ind/NHOPI*) and five are female.

¹⁵ The gender categories of female and male that appear in the tables and charts prepared by the Judiciary’s EEO/AA Unit are based on EEOC reporting categories and 2010 Census availability. The State of New Jersey since February 2019 offers a third gender option captioned “undesigned/non-binary.” Due to the non-alignment between federal reporting requirements and state gender categories, any information on employees identifying as undesigned/non-binary needs to be presented separately since “availability” data has not been established. “Availability” is the measure by which representation in the workforce is reviewed and determined to be underrepresentation, sufficient representation, or overrepresentation. Currently, however, the Judiciary has no judges or non-judge staff that have self-identified as undesigned/non-binary.

¹⁶ The race/ethnicity categories presented in this section correspond to the wording of the U.S. E.E.O.C. categories that the Judiciary EEO/AA Unit reports and not necessarily the terms used by the individual(s) counted here.

- In sum, seventy-five of the 417 judges for all levels of court combined are people of color and 151 are female.

Considering these data in terms of percentages, the representation of racial/ethnic minorities is 28.6% for the Supreme Court, 18.2% for the Superior Court-Appellate Division, 18.0% for the Superior Court-Trial Division, 9.1% for the Tax Court, and 18.0% for all levels of court combined.

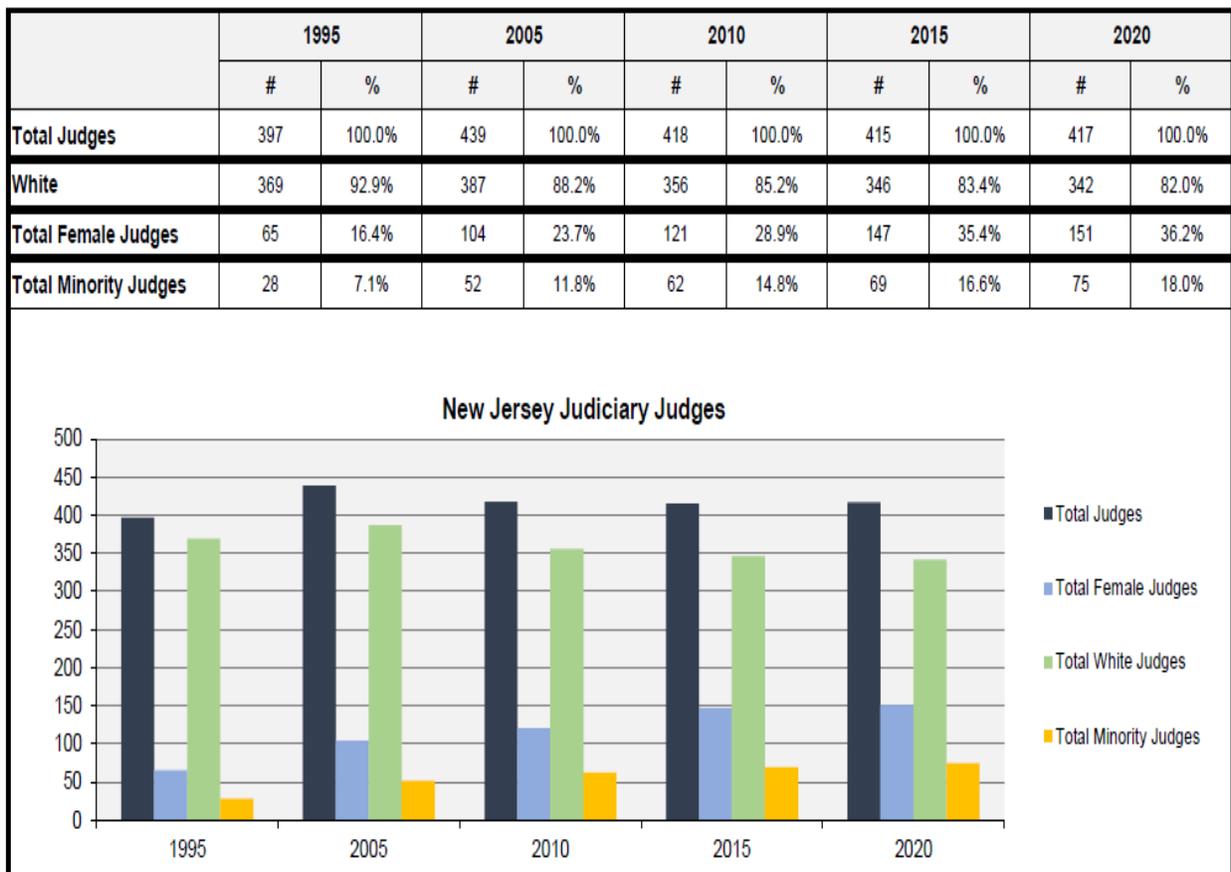
Considering these data for racial/ethnic minorities by E.E.O.C. category, representation is 14.3% (n=1) Black/African American, 14.3% (1) Latino/a/x, and 0.0% (0) Asian/American Indian/NHOPI at the Supreme Court; 12.1% (4) Black/African American, 6.1% (2) Latino/a/x, and 0.0% (0) Asian/American Indian/NHOPI at the Superior Court-Appellate Division; 9.3% (34) Black/African American, 7.1% (26) Latino/a/x, and 1.6% (6) Asian/American Indian/NHOPI at the Superior Court-Trial Division; 0.0% (0) Black/African American, 0.0% (0) Latino/a/x, and 9.1% (1) Asian/American Indian/NHOPI at the Tax Court; and 9.4% (39) Black/African American, 7.0% (29) Latino/a/x, and 1.7% (7) Asian/American Indian/NHOPI for all levels of court combined.

In terms of gender, the representation of women (all races/ethnicities combined) is 42.9% for the Supreme Court, 36.4% for the Superior Court-Appellate Division, 35.8% for the Superior Court-Trial Division, 45.5% for the Tax Court, and 36.2% for all levels of court combined. In contrast, the representation of women of color is 14.3% for the Supreme Court, 6.1% for the Superior Court-Appellate

Division, 10.9% for the Superior Court-Trial Division, 9.1% for the Tax Court, and 10.6% for all levels of court combined.

The Committee considered data provided by the Judiciary’s EEO/AA Unit that illustrates the current diversity of the bench and representativeness of the bench in the context of twenty-five years of longitudinal data.

Table 2. New Jersey Judiciary - Comparison of Judges For Total, Whites, Females, and Minorities, 1995-2020



Presenting five select intervals spanning a twenty-five year period, *Table 2. New Jersey Judiciary - Comparison of Judges for Total, Whites, Females, and Minorities, 1995-2020* shows that the representation of judges of color incrementally

increased in terms of both numbers and percentages. In addition, the Committee is aware that the inclusivity this diversity represents has also expanded. For example, in 1995 non-White judges were primarily Black/African American and Hispanic/Latino whereas in 2020 non-White judges includes a growing expanse of Hispanics/Latinos of different heritages and growing diversity among Asian judges. In addition, in terms of religious and cultural diversity, the state court bench now includes increasing representation of Muslim judges.

Continuing to support diversity, inclusion, and representation is critically important. Without any doubt, the trends depicted above are positive. However, the Committee's ability to assess whether the observed level of diversity and inclusion reflects underrepresentation, adequate representation, or overrepresentation, using an objective standard of measure, is hindered by the lack of corresponding data on prospective judicial applicants among the members of the Bar.

While there are U.S. Census data regarding professions that some have suggested as an objective measure of assessment, for purposes of this context those data would not provide a reliable or meaningful approximation of "availability." In order to place the demographic diversity data regarding judges in meaningful context, it is essential that there be access to reliable self-reported data on the race, ethnicity, and other primary aspects of identity experience that can be cross-

tabulated with years of admittance¹⁷ so that assessments can properly be made as to the representativeness of nominations and confirmations to judgeships in relation to the availability of qualified prospective nominees.

While the Judiciary has no direct role in generating judicial diversity as nominations and confirmations are the work of the executive and legislative branches, the Judiciary can share its diversity data to encourage the creation of a means by which such data can be analyzed and used to increase diversity with the judicial ranks. To that end, the Committee restates its support for the collection of demographic data on attorneys licensed in New Jersey.

The Committee most recently discussed this issue in its 2013-2015 report in the context of Recommendation 2015:04.2, which proposed that the race/ethnicity field as well as other relevant demographic categories be added to the annual attorney registration form.¹⁸ While the recommendation was well-supported by various bar associations, including the affinity bars, the Committee was apprised that

¹⁷ One of the requirements for nomination to the bench in New Jersey is the minimum number of years a nominee has been a licensed attorney, namely a minimum of five years for municipal court judgeships, and a minimum of ten years for Superior Court judgeships.

¹⁸ The referenced discussion and recommendation appear on pp. 152-153 of the 2013-2015 Report of the Committee on Minority Concerns, which is accessible online at <https://njcourts.gov/courts/assets/supreme/reports/2015/minority2015.pdf>

the specifics of the recommendation as presented at the time were neither technologically nor logistically feasible.

During this cycle the Committee revisited the issue because of the advent of new technologies that may make the recommendation feasible. The Committee respectfully presents for the Court's consideration an updated version of the recommendation, which proposes to collect these data on a voluntary basis at the time of the annual attorney registration.

The Committee notes that since it last formally considered this issue the practice of collecting attorney demographics on a voluntary basis at the time of the annual registration process has been adopted by other states, including the Commonwealth of Pennsylvania. In announcing its implementation of demographic data collection beginning with the 2018-2019 annual attorney registration cycle,¹⁹ the Supreme Court of Pennsylvania noted: "Without reliable data on the state of diversity within the profession, it is difficult, if not impossible, to move forward with programs to increase diversity and inclusion."²⁰ The Committee concurs.

¹⁹ In Pennsylvania, the Disciplinary Review Board oversees the annual attorney registration process. Beginning with the 2018-2019 annual attorney registration cycle, the process now includes a question a voluntary question requesting self-identification in terms of race, ethnicity, and gender.

²⁰ <https://www.padisciplinaryboard.org/news-media/news-article/30/disciplinary-board-announces-diversity-data-collection>

The Committee believes the annual attorney registration process is the most appropriate point for collecting these metrics since it is the sole mechanism that accounts for all attorneys licensed to practice in the State of New Jersey. This mechanism will provide the means by which to cross-tabulate years of licensing with race/ethnicity, gender, and other data, and assess more meaningfully the diversity of the Bar at large and the eligibility pool from which lawyers practicing in New Jersey are recruited for the Superior and Municipal Court benches and other judicial assignments.²¹ The Pennsylvania Supreme Court explained the basis for collecting the data and the framework for use of the data:

The collected data ... establish[es] a demographic baseline of Pennsylvania attorneys, track[s] changes in the demographics of the profession for purposes of measuring progress, and provide[s] useful information to the courts. The data [may] be shared only in its aggregate form, that is, the shared data [does] not include any identifying information about an applicant. The ... collection of attorney demographic data extends the Court's commitment to justice by gathering foundational information to help identify and eliminate barriers to fairness within the court system and the legal profession.²²

²¹ Staff have compiled data on the collection of demographic data on attorneys in the fifty states and District of Columbia. Reviewing that information points to the attorney registration process as the best opportunity to secure these demographic data since registration is required for all licensed practicing attorneys. This information also illustrates the variety of approaches to the data collection and the range of diversity and inclusion related categories about which data is collected on a voluntary basis.

²² <https://www.padisciplinaryboard.org/news-media/news-article/30/disciplinary-board-announces-diversity-data-collection>

In the Committee’s view, the framework articulated by the Pennsylvania Supreme Court aligns well with the mission of diversity, inclusion, and community engagement and the New Jersey Judiciary’s longstanding commitment to diversity, inclusion, and representativeness.

RECOMMENDATION 2021:05

The Committee recommends that the annual attorney registration process include a means by which attorneys can have the option to self-report race/ethnicity information and other demographic data that would be useful in developing a diversity profile of the Bar. These data can be used meaningfully and beneficially by the Judiciary, various Supreme Court Committees, and the Bar Associations for a variety of beneficial purposes, including but not limited to generating availability data which could identify qualified and eligible candidates for potential judicial appointments.

The Committee proposes that such demographic data collection opportunities include language that informs attorneys of the basis for the information requested, explains the safety and security features that prevent an individual from being personally identified via the information submitted, and provides an explanation of the goals and purposes for collecting race/ethnicity and other demographic information via the attorney registration process.

3. Key Areas of Advancement

Advancements in diversity, inclusion, and representativeness continue to be made in judicial leadership positions through the Chief Justice’s appointments to the Appellate Division and selection Assignment Judges, Presiding Judges, and Chairs of the Presiding Judge Conferences. Diversity of experience not only yields diversity of thought, but also produces better and equitable outcomes.

Among these appointments, the Committee notes the recent appointment of the Honorable Mala Sundar as Presiding Judge of the Tax Court and the recent selection of the Honorable Sheila A. Venable as Assignment Judge of Essex Vicinage. Both judges bring extensive experience and diverse perspectives to these new assignments. Judge Sundar is the first woman and person of color to serve as the Presiding Judge of the Tax Court and Judge Venable is only the second woman of color to serve as an assignment judge and just the fourth Black judge to serve in this role statewide (in addition to being the first person of color to serve as Assignment Judge in Essex Vicinage).

The value of diversity in these assignments, including also the chairpersons of the presiding judges conferences, and recognition of the extensive experience and administrative expertise of well-qualified judges who are also people of color continues to add to the richness of Judiciary policy-making bodies such as Judicial Council and the various Conferences of Presiding Judges. To illustrate this growth, the Committee notes, for example, the increased diversity among presiding judges (including both the Trial and Appellate Divisions and Tax Court). In 1995, 3.6% of presiding judges were racial/ethnic minorities, 5.8% in 2005, 17.4% in 2010, 14.5% in 2015, and 19.4% in 2020.

As the Committee understands it, the application and selection process for vacancies in senior judicial leadership positions includes consideration of the

breadth of a judge-applicant's experience and expertise. This approach, coordinated by the Chief Justice and Administrative Director, is clearly contributing to the continuing expansion of diversity and inclusion in judicial leadership positions.

B. *New Jersey's Model Law Clerk Program*

Each term, the Committee has reported extensive data and offered analysis of the diversity trends in New Jersey's model law clerk program as relates to race and ethnicity, and occasionally, the schools from which the clerks have graduated. This term, the Committee engaged in a more expansive review of the program in order to further its reputation as a national model.

1. History and Program Goals

For at least four decades, diversity, inclusion, and opportunity have been core elements of the New Jersey Courts Law Clerk Program. The commitment to excellence through diversity and inclusion has been supported and promoted by Judiciary leadership. Indeed, Chief Justice Rabner stated:

[T]he New Jersey Judiciary has made a commitment to increase minority participation in our annual judicial clerkship program. That effort is consistent with our larger responsibility to eliminate systemic barriers and ensure public confidence in the fairness of the courts. Our efforts also provide advantages to judges and lawyers. Law clerks have the opportunity to test and enhance their critical thinking, model skills related to attorney professionalism, and develop a relationship with a mentor judge. Judges, in turn, benefit from

varied perspectives and contribute to the continuing work of building a diverse bar and bench.²³

2. Diversity, Inclusion, and Representation

a. Measures of Availability

Diversity and inclusion enhance excellence. The National Association for Law Placement (“NALP”) “[provides] ... career services, recruitment, and professional development organization in the world [so that] the lawyers and law students [it] serve[s] ... have an ethical recruiting system, employment data they can trust, and expert advisers to guide and support them in every stage of their careers.” (NALP Mission Statement, <https://www.nalp.org/>) Among other information, NALP collects and analyzes extensive data on various career points including judicial clerkships and composite national profiles on each year’s law school graduating classes.

NALP resources provide a valuable point of reference for this discussion on judicial clerkships and the New Jersey Judiciary Law Clerk Program. For example, the NALP law school graduating class data profile for the Class of 2019 revealed the following: The nationwide combined law school graduating class of 2019 included 33,954 people with data reported for 33,440, or a total of 98% of the graduating

²³ Memorandum of Chief Justice Stuart Rabner on Law Clerk Diversity, October 28, 2020

class.²⁴ This is a very significant data pool with which to work. In terms of racial and ethnic diversity, 32.8% of those reporting race identified as people of color. Looking at the intersection of race and gender, 19.5% (n=5,776) were women of color, 13.3% (3,937) were men of color, and 0.1% (26) were non-binary people of color. In terms of career path choices, 33.4% chose public sector employment opportunities with 11.5% or 3,432 graduates of the nationwide graduating class elected judicial clerkships of which 58.2% (1,999) chose state court clerkships.

b. Current Diversity Snapshot

The NALP data provides an illuminating backdrop to considering the diversity and inclusion within the New Jersey Judiciary's law clerk classes as presented in this section.

²⁴ https://www.nalp.org/uploads/Classof2019NationalSummaryReport_.pdf

**Table 3. New Jersey Judicial Law Clerks for Court Term 2020-2021
As of January 1, 2021²⁵**

	#	%	Availability% ¹
Total Law Clerks	487	100%	
Total Minorities	142	29.2%	29.3%
African American/Black	48	9.9%	5.7%
Hispanic/Latino(a/x)	55	11.3%	16.2%
Asian/Amer. Ind/NHOPI*	39	8.0%	7.4%
Total Females ³	259	53.2%	46.0% ²

Table 3. New Jersey Judicial Law Clerks for Court Term 2020-2021 (as of October 1, 2020) presents the number, percentage, and corresponding availability rate by race and ethnicity and for females. The New Jersey Judiciary measures its successes in supporting diversity and inclusion in the judicial clerkship program by comparing the demographics of a law clerk class to the combined race/ethnicity profile of the New Jersey law school graduating class as provided by the New Jersey

²⁵ Table Notes: Percentages are % of total in each major category. Percentages may not always add due to rounding.

Data Source: Payroll Management Information System.

* NHOPI = Native Hawaiian/Other Pacific Islander

1. Minority availability is based on the graduation rate at the two New Jersey law schools (Rutgers and Seton Hall) for 2019. This data was provided by the New Jersey Commission on Higher Education.

2. Female availability is based on the graduation rate at the two New Jersey law schools for 2019.

3. Total females includes minorities and non-minorities.

Department of Education. The local law school graduate profile measure is used as a standard of availability to recruit in a similar fashion to the use of availability factors used to assess the representativeness of the workforce. The measure is neither a quota nor a target, but instead a means of measurement and an opportunity to self-assess inclusion and representation within the law clerk ranks.

With 29.2% representation for law clerks of color, this year's law clerk class represents the highest representation of diversity and inclusion in the past five years. Looking at the data more closely, the Committee notes that the Judiciary has met or exceeded availability for law clerks of color combined, Blacks/African Americans, Asians/American Indians/NHOPIs, and for females.²⁶ Hispanics/Latinos/a/x, however, remain underrepresented at 11.3% versus 16.2% availability.

To place this general diversity snapshot in context, the Committee presents data on law clerk race, ethnicity, and gender diversity by level of court.

²⁶ The EEO/AA tables and chart, as previously noted, use the term "minority" and the noted race/ethnicity categories consistent with the EEOC reporting classifications.

Table 4. New Jersey Judicial Law Clerks - Race/Ethnicity and Gender by Court Level for Court Term 2020-2021, As of January 1, 2021²⁷

	Total		White		Total Minorities		African American/Black		Hispanic/Latino(a/x)		Asian/Amer. Ind/NHOPI*	
	#	%	#	%	#	%	#	%	#	%	#	%
Supreme Court												
Male	13	61.9%	11	52.4%	2	9.5%	2	9.5%	0	0.0%	0	0.0%
Female	8	38.1%	7	33.3%	1	4.8%	0	0.0%	0	0.0%	1	4.8%
Total	21	100.0%	18	85.7%	3	14.3%	2	9.5%	0	0.0%	1	4.8%
Appellate Division												
Male	37	57.8%	32	50.0%	5	7.8%	1	1.6%	1	1.6%	3	4.7%
Female	27	42.2%	17	26.6%	10	15.6%	3	4.7%	6	9.4%	1	1.6%
Total	64	100.0%	49	76.6%	15	23.4%	4	6.3%	7	10.9%	4	6.3%
Superior Court												
Male	172	44.0%	139	35.5%	33	8.4%	10	2.6%	12	3.1%	11	2.8%
Female	219	56.0%	131	33.5%	88	22.5%	31	7.9%	36	9.2%	21	5.4%
Total	391	100.0%	270	69.1%	121	30.9%	41	10.5%	48	12.3%	32	8.2%
Tax Court												
Male	6	54.5%	4	36.4%	2	18.2%	0	0.0%	0	0.0%	2	18.2%
Female	5	45.5%	4	36.4%	1	9.1%	1	9.1%	0	0.0%	0	0.0%
Total	11	100.0%	8	72.7%	3	27.3%	1	9.1%	0	0.0%	2	18.2%
Grand Total - All Law Clerks												
Male	228	46.8%	186	38.2%	42	8.6%	13	2.7%	13	2.7%	16	3.3%
Female	259	53.2%	159	32.6%	100	20.5%	35	7.2%	42	8.6%	23	4.7%
Total	487	100.0%	345	70.8%	142	29.2%	48	9.9%	55	11.3%	39	8.0%

²⁷ Note: Percentages represent a percentage of the total in each major category. Percentages may not always add due to rounding.

Data Source: Payroll Management Information System

* NHOPI - Native Hawaiian/Other Pacific Islander

In summary, *Table 4* shows the following:

- Three of the twenty-one law clerks at the Supreme Court are people of color and eight are females.
- Fifteen of the sixty-four law clerks in the Appellate Division are people of color and twenty-seven are females.
- 121 of the 391 law clerks in the Superior Court-Trial Division are people of color and 219 are female.
- Three of the eleven law clerks in the Tax Court are people of color and five are female.
- In sum, 142 of the 487 law clerks for the Judiciary all levels of court combined are people of color and 259 are female.

Considering these data in terms of percentages, the representation of law clerks of color is 14.3% for the Supreme Court, 23.4% for the Superior Court-Appellate Division, 30.9% for the Superior Court-Trial Division, 27.3% for the Tax Court, and 29.2% for all levels of court combined.

Considering these data by E.E.O.C. race/ethnicity category, representation is 9.5% (n=2) Black/African American, 0.0% (0) Latino/a/x, and 4.8% (1) Asian/American Indian/NHOPI at the Supreme Court; 6.3% (4) Black/African American, 10.9% (7) Latino/a/x, and 6.3% (4) Asian/American Indian/NHOPI at the Superior Court-Appellate Division; 10.5% (41) Black/African American, 12.3% (48) Latino/a/x, and 8.2% (32) Asian/American Indian/NHOPI at the Superior Court-Trial Division; 9.1% (1) Black/African American, 0.0% (0) Latino/a/x, and

18.2% (2) Asian/American Indian/NHOPI at the Tax Court; and 9.9% (48) Black/African American, 11.3% (55) Latino/a/x, and 8.0% (39) Asian/American Indian/NHOPI for all levels of court combined.

In terms of gender, the representation of women (all races/ethnicities combined) is 38.0% for the Supreme Court, 42.2% for the Superior Court-Appellate Division, 56.0% for the Superior Court-Trial Division, 45.5% for the Tax Court, and 53.2% for all levels of court combined. In contrast, the representation of women of color is 4.8% for the Supreme Court, 15.6% for the Superior Court-Appellate Division, 22.5% for the Superior Court-Trial Division, 9.1% for the Tax Court, and 20.5% for all levels of court combined.

The Committee offers the preceding data in the context of longitudinal law clerk diversity data provided by EEO/AA. However, the Committee believes the data is most meaningfully viewed as a current snapshot that should be further considered in the context of comparable data over time. To that end, the Committee considered data provided by the Judiciary's EEO/AA Unit that illustrates the current diversity of the judicial clerkship cohorts for ten consecutive court terms.

Table 5. Hiring Of New Jersey Judicial Law Clerks by Court Level and Race/Ethnicity Over 10 Court Terms

Totals by Court Term and Court Level						Totals by Race/Ethnicity		
<u>2020-2021</u>	Supreme Court	Appellate Division	Superior Court	Tax Court	Totals	Race/Ethnicity	#	%
Total # Law Clerks	22	60	393	11	486	African Amer./Black	47	9.7%
# of Minorities	3	13	122	3	141	Hispanic/Latino(a/x)	55	11.3%
% of Minorities	13.6%	21.7%	31.0%	27.3%	29.0%	Asian/A.L./NHOPI*	39	8.0%
<u>2019-2020</u>	Supreme Court	Appellate Division	Superior Court	Tax Court	Totals	Race/Ethnicity	#	%
Total # Law Clerks	21	64	407	10	502	African Amer./Black	45	9.0%
# of Minorities	4	12	119	2	137	Hispanic/Latino(a/x)	50	10.0%
% of Minorities	19.0%	18.8%	29.2%	20.0%	27.3%	Asian/A.L./NHOPI*	42	8.4%
<u>2018-2019</u>	Supreme Court	Appellate Division	Superior Court	Tax Court	Totals	Race/Ethnicity	#	%
Total # Law Clerks	21	66	426	10	523	African Amer./Black	47	9.0%
# of Minorities	2	12	116	3	133	Hispanic/Latino(a/x)	48	9.2%
% of Minorities	9.5%	18.2%	27.2%	30.0%	25.4%	Asian/A.L./NHOPI*	38	7.3%
<u>2017-2018</u>	Supreme Court	Appellate Division	Superior Court	Tax Court	Totals	Race/Ethnicity	#	%
Total # Law Clerks	21	63	439	10	533	African Amer./Black	39	7.3%
# of Minorities	3	13	111	1	128	Hispanic/Latino(a/x)	44	8.3%
% of Minorities	14.3%	20.6%	25.3%	10.0%	24.0%	Asian/A.L./NHOPI*	45	8.4%
<u>2016-2017</u>	Supreme Court	Appellate Division	Superior Court	Tax Court	Totals	Race/Ethnicity	#	%
Total # Law Clerks	21	64	426	8	519	African Amer./Black	49	9.4%
# of Minorities	3	14	109	0	126	Hispanic/Latino(a/x)	35	6.7%
% of Minorities	14.3%	21.9%	25.6%	0.0%	24.3%	Asian/A.L./NHOPI*	42	8.1%

Totals by Court Term and Court Level						Totals by Race/Ethnicity		
<u>2015-2016</u>	Supreme Court	Appellate Division	Superior Court	Tax Court	Totals	Race/Ethnicity	#	%
Total # Law Clerks	21	61	424	8	514	African Amer./Black	30	5.8%
# of Minorities	5	11	73	4	93	Hispanic/Latino(a/x)	36	7.0%
% of Minorities	23.8%	18.0%	17.2%	50.0%	18.1%	Asian/A.L./NHOPI*	27	5.3%
<u>2014-2015</u>	Supreme Court	Appellate Division	Superior Court	Tax Court	Totals	Race/Ethnicity	#	%
Total # Law Clerks	21	55	402	10	488	African Amer./Black	30	6.1%
# of Minorities	1	9	68	4	82	Hispanic/Latino(a/x)	23	4.7%
% of Minorities	4.8%	16.4%	16.9%	40.0%	16.8%	Asian/A.L./NHOPI*	29	5.9%
<u>2013-2014</u>	Supreme Court	Appellate Division	Superior Court	Tax Court	Totals	Race/Ethnicity	#	%
Total # Law Clerks	21	48	397	8	474	African Amer./Black	33	7.0%
# of Minorities	2	6	78	1	87	Hispanic/Latino(a/x)	23	4.9%
% of Minorities	9.5%	12.5%	19.6%	12.5%	18.4%	Asian/A.L./NHOPI*	31	6.5%
<u>2012-2013</u>	Supreme Court	Appellate Division	Superior Court	Tax Court	Totals	Race/Ethnicity	#	%
Total # Law Clerks	16	47	395	7	465	African Amer./Black	35	7.5%
# of Minorities	4	10	75	2	91	Hispanic/Latino(a/x)	22	4.7%
% of Minorities	25.0%	21.3%	19.0%	28.6%	19.6%	Asian/A.L./NHOPI*	34	7.3%
<u>2011-2012</u>	Supreme Court	Appellate Division	Superior Court	Tax Court	Totals	Race/Ethnicity	#	%
Total # Law Clerks	21	49	388	6	464	African Amer./Black	30	6.5%
# of Minorities	3	4	68	1	76	Hispanic/Latino(a/x)	18	3.9%
% of Minorities	14.3%	8.2%	17.5%	16.7%	16.4%	Asian/A.L./NHOPI*	28	6.0%

Table 5. Hiring Of New Jersey Judicial Law Clerks by Court Level and Race/Ethnicity Over 10 Court Terms presents some notable observations. Generally, the representation of law clerks of color in the Superior Court-Trial Division has continued to increase incrementally from sixty-eight for the 2011-2012 term to 122 for the 2020-2021 term, the highest number to date and nearly a 100% increase during these ten-term period. In contrast, for the Supreme Court, Superior Court-Appellate Division, and Tax Court, representation in terms of numbers fluctuates over time.

Viewing these data by race/ethnicity categories, the Committee observed that the representation of Hispanic/Latino/a/x clerks has generally increased incrementally over the course of this ten-term period. In contrast, representation of Black/African American and Asian/American Indian/NHOPI law clerks has fluctuated from term-to-term.

Discussion

Recognizing the New Jersey judicial clerkship program is national in scope and hiring results in a fairly balanced mix of clerks from in-state and out-of-state, relying on the graduation rate of the two New Jersey law schools may underestimate the availability of law school graduates of color because the New Jersey law school graduation rate appears lower than the national availability rate as reported by the NALP. Having a more precise measure of availability can strengthen efforts to

expand diversity of the applicant pool and the resulting clerkship class. The Committee believes it will be beneficial for the Judiciary to revisit the current measure it uses to determine if there is a more precise measure available. Additionally, the Judiciary may also wish to consider its data in the context of the number of students of color who graduate law schools each year and the range of choices successful graduates have for their first post-degree job.

RECOMMENDATION 2021:06

The Committee recommends that the Judiciary review its current method for calculating the availability of racially and ethnically diverse law clerks and explore whether it is more beneficial to adopt the NALP availability rate using the prior graduation year availability or whether it would be more appropriate to create a new standard that factors in both the NALP availability rate and the New Jersey law school graduation rate or some other appropriate combination of factors.

3. State Court Judicial Clerkship as a Career Builder

In addition to the skills and experiences judicial law clerks acquire, a judicial clerkship is a career building and networking opportunity. The Judiciary continues to enhance its outreach efforts, including in the current virtual environment, to present New Jersey judicial clerkships as more than a job. This is key to attracting a qualified and diverse law clerk applicant pool. Human Resources at the Administrative Office of the Courts has recently taken on a more direct role in the coordination of recruitment and outreach initiatives. The Committee believes that the central coordination of these efforts as well as the enhanced administrative

oversight of the application and hiring processes, including the use of the application portal, has resulted in efficiency and strengthened the Judicial Clerkship Program.

Communicating the diversity of experiences obtained and skills developed depending on the level of court or trial division where one is hired as a judicial law clerk is a key element of the outreach and recruitment effort. Encouraging prospective applicants to thoughtfully match their applications to judges in courts and divisions where their experiences and skills can best be utilized and their personal goals for the clerkship achieved has been another aspect of the ongoing outreach by Human Resources and EEO/AA. This array of outreach and recruitment is undoubtedly contributing to the increased diversity in the composition of recent Judiciary law clerk classes because representativeness in hiring starts with the diversity of the applicant pool.

Through the course of its review this term, the Committee recognizes there are certain barriers that eliminate a judicial clerkship from the possible options for some recent law school graduates. Examples of barriers that were discussed during the Committee's information gathering sessions include: the widespread challenge of high student loan debt; the complex and sometimes frustrating criteria of student loan forgiveness programs; the lack of transportation resulting in the impossibility of otherwise qualified applicants applying for clerkships in vicinages which are not

readily accessible by public transportation,²⁸ and the unavailability of affordable rental housing for law clerks who live away from home or on their own.

RECOMMENDATION 2021:07

The Committee recommends that the Judiciary expand the scope of its focus to identify the barriers to achieving more diverse applicant pools and foster the development of innovative or collaborative solutions to the degree feasible and appropriate.

4. Recruitment, Application, Selection, and Hiring

The Committee learned from Human Resources and EEO/AA about the recruitment, application, selection, and hiring processes. This discussion included learning about the scope of enhancements the Judiciary has put in place to strengthen the administration of the judicial clerkship program.

There are two areas that the Committee suggests for further review, namely:

- How to capture (on a voluntary basis) race, ethnicity, and other demographic data such as gender in order to better understand the composition of the applicant pool and effectiveness of outreach and recruitment efforts. At present, the Judiciary only has access to law clerk diversity data from the point of hiring/onboarding.
- Exploring what additional resources and supports would be helpful to judges in optimizing outreach to law schools, increasing the applications they receive, selecting applicants to interview, conducting interviews, and making selections. The Committee recognizes the need for judges to have broad discretion in the selection of their law clerks and other chambers

²⁸ The Committee discussed the potential of exploring access to state vehicles for commuting purposes, creation of a transportation stipend to assist with the cost of ride-sharing services, and increased access to commuter shuttle services.

staff such as secretaries, however there is institutional value to adding some standards and relevant data collection to the pre-hiring process to assure diversity within the law clerk ranks.

5. Opportunities for Enhancements

In support of the Judiciary's continuing commitment to the judicial clerkship program, the Committee identified the following two specific areas for potential programmatic enhancement:

a. Law Clerk Professional Development in Diversity and Inclusion

The Committee acknowledges the high overall quality of the law clerk training in place across all court levels. The Committee also notes that the statewide coordination of Trial Division law clerk training was recently transferred to the Judicial Education and Performance Unit ("Judicial Education"). Judicial Education provided the Committee with the following context for this organizational change:

While the annual training requirements for incoming law clerks remain focused on functional matters, the transition of the responsibility for the Trial Court Law Clerk Training Program to Judicial Education ensures ongoing and comprehensive program development efforts on a statewide basis. For example, feedback from judges as to their functional expectations as well as any professional development needs of the law clerks may be methodically addressed through Judicial Education. Judicial Education will also ensure that such training and development of law clerks is consistent with the training and education programs offered to judges.

The Committee believes this structural change provides meaningful opportunities for enhancing the training and professional development provided to law clerks

statewide by expanding training for law clerks beyond procedural and transactional training to substantive professional development.

Judicial law clerks represent the newest members of the legal profession and the Judiciary workforce and are often the first or primary court personnel who interact with attorneys and litigants. The interactions the public and Bar have with law clerks affect their impressions of the judicial system and their perceptions of the quality of justice it will dispense. While the clerks receive a comprehensive orientation and standard initial training on court operations, chamber practices, and general Judiciary culture, the Committee believes it is also mutually beneficial to provide ongoing statewide professional development for clerks through a series of periodic virtual programs relating to the following dimensions of access to the courts and procedural fairness: (1) diversity, inclusion, and elimination of bias; (2) the principles of access and fairness; and (3) basic LGBTQ+ inclusive courtroom practice and quality service. These programs would supplement the JISA programs or vicinage-produced programs available to law clerks.

RECOMMENDATION 2021:08

The Committee recommends that the Judiciary expand professional development opportunities for law clerks in key organizational focus areas by establishing a virtual series, offered periodically, relating to the following dimensions of access to the courts and procedural fairness: (1) diversity, inclusion, and elimination of bias; (2) the principles of access and fairness; and (3) basic LGBTQ+ inclusive courtroom practice and quality service.

b. Establishing Standards for Judicial Internships

The Committee offers here an overview of its discussion on the value of unpaid judicial internships for 1L and 2L students. Judicial internships offer first generation law students, as well as non-traditional law students and those without any prior background in the law, meaningful hands-on opportunities to enhance their writing and research skills and build their resumes. Likewise, they offer judges access to potential candidates for clerkships. The Committee believes that access to well-developed judicial internships assists law students in becoming stronger candidates for judicial clerkships. Based on its initial research, the Committee learned there is great variation among the vicinages and the courts in the ways internships are managed (if they are available at all). The Committee believes there is value in standardizing the framework for judicial internships.

RECOMMENDATION 2021:09

The Committee recommends that the Judiciary develop and adopt, with input from judges who have successfully supervised law student internships, a standard baseline framework for judicial internships.

C. *Looking to the Future: Advancing Use of Data Analytics and Realizing the Workforce of the Future*

Looking to the future, the Committee notes its interests in two specific areas: (1) advancing the use of data analytics in its work, e.g., moving beyond comparison of percentages to deeper, multi-variable data analysis particularly in areas relating to workforce diversity such as retention, promotion/advancement, and separations;

and (2) further exploring the concept of the “workforce of the future.” The reality of the COVID-19 pandemic necessitated the move to the workforce of the future in real time, e.g., through remote work arrangements and alternative/flexible work schedules. As noted in the earlier digital divide discussion, the Committee anticipates identifying certain aspects of the pandemic necessitated work from home procedures that would be beneficial to maintain long-term. In addition, the Committee looks forward to engaging in advanced data analytics to support institutional efforts to expand equity in the context of the Judiciary’s diverse and inclusive workforce.

V. Justice Systems Reforms

Justice systems reforms are central to eliminating structural barriers to justice and eliminating systemic disparities in justice system outcomes. Since the Judiciary’s joint participation in the 2003 interagency study on systemic disparities in juvenile justice systems outcomes, the New Jersey Judiciary has continued to be a national and regional leader in advancing long-term justice systems reforms. Most recently, the Court has led reforms in the areas of criminal justice, municipal courts, juvenile justice, children-in-court, and probation. In addition, the Court in its July 16, 2020 Action Plan on Ensuring Equal Justice identified additional areas of focus including juror impartiality and diverse, inclusive, and representative juries.

This cycle, the Committee shifted its focus in the context of access to justice for families beyond its long-term focus on juvenile delinquency and children-in-court. Building on the work the Committee undertook in its most recent terms regarding name changes for children and youth, the Committee focused on potential reform of the non-dissolution, or FD docket, in the Family Part.

A non-dissolution (“FD”) case involves unmarried parents or other adults filing for court relief on behalf of minor children. FD cases can also include married people who are separated but require financial support. Examples of matters adjudicated under the FD docket include cases involving custody, parenting time, and child support between parents, grandparent visitation, third-party custody matters, special immigrant juvenile petitions, and name changes for minors.

The Committee is aware that the Conference of Family Part Presiding Judges has been engaged in work in this area that is still in process and not yet reported publicly and so offers this brief discussion in furtherance of those efforts. The parties in FD matters are often self-represented and among the most socially vulnerable, e.g., the Committee understands that parties in this docket include a notable number of men of color who are self-represented, some of whom are returning citizens having completed custodial sentences addressing child support and parenting time.

Despite best efforts and intentions, the Committee continues to hear concerns raised about the impact of FD case management dynamics on the delivery of justice

to parties in a timely and efficient manner. Further, the complexities of onboarding new judges, generally or in reassignment to this docket, result in a learning curve, which further impacts these cases. For these reasons, the Committee supports a focused review of FD docket processes and procedures, which would include input from attorneys who frequently handle FD matters in the process and a sampling of trial court judges handling the docket, in order to enhance the administration of justice, procedural fairness, and public confidence in the FD docket.

RECOMMENDATION 2021:10

To support and expand current internal efforts to enhance the administration of the FD docket, procedural fairness and public confidence, the Committee recommends the establishment of a working group, comprised of a range of internal and external stakeholders such as judges handling the FD docket and attorneys frequently appearing in the FD docket.

VI. Supporting Litigant Services and Promoting Procedural Fairness

The Committee expresses its ongoing support for the Judiciary’s longstanding institutional services, the Ombudsman and Language Access programs, and the continuing efforts relating to LGBTQ+ inclusive practices.

The New Jersey Judiciary continues to demonstrate strong leadership in promoting equal access to the courts for LGBTQ+ people, notably from an intersectional perspective.²⁹ For example, the Court during this term approved a

²⁹ The New Jersey Judiciary remains well-noted as one of only two state court systems that have an identified Central Office resource person in this area of diversity and inclusion. The standard set by the New Jersey Judiciary in this area of

policy allowing staff on voluntary basis to include their pronouns in their email signatures; has expanded the availability of general and advanced practice-specific training for judges, managers, and staff; and eliminated the newspaper publication requirement in name change matters. These steps have positive material impact, improving access to the courts for numerous individuals including transgender women of color, who based on intersectional systemic oppressions often find themselves as the most marginalized of the marginalized.

A. Rule 1:38³⁰

As the Court is aware, the Committee in its 2017-2019 report proposed the use of initials in case captions and sealing of the records in name changes for minors given the privacy, safety, and well-being interests of these children and youth. That aspect of Recommendation 2019:13 was not approved as presented but remains

ensuring access to justice through the courts is nationally known as Central Office staff with subject matter expertise in LGBTQ+-inclusive practice has made professional development presentations to a number of external audiences, including most recently the National LGBT Bar Association, the International Association of LGBTQ+ Judges, and members of the Georgia Judiciary.

³⁰ The Committee understands that substantive action on this item and recommendation would be pursuant to the Court's referral of the Recommendation to the Supreme Court Committee on Public Access to Court Records, which is responsible for Rule 1:38.

under review for other possible ways to address the spirit of the Recommendation.³¹

Absent some Rule or procedural change, attorneys continue to file motions to seal on an individual basis. There are multiple challenges, including concerns about procedural inconsistency in the context of similarly situated litigants, with continuing to proceed in this manner.

Generally speaking, motions to seal name changes are grounded on concerns for the safety and well-being of name change applicants who seek the court-affirmed name change in affirmation of their gender identity. Concerns for the physical well-being and safety of transgender, gender non-conforming, and non-binary people are neither theoretical nor abstract. The Human Rights Campaign in “An Epidemic of Violence: Fatal Violence Against Transgender and Gender Non-Conforming People in the United States in 2020,” reports:

Since 2013, [the Human Rights Campaign] and other advocates have tracked 202 cases of fatal violence against transgender and gender nonconforming people across 30 states and 113 cities nationwide. Although each case is unique in its circumstances, we know this epidemic disproportionately impacts Black transgender women, who comprise 66% of all [reported] victims

³¹ The referenced discussion and recommendation appear on pp. 24-32 of the 2017-2019 Report of the Committee on Minority Concerns, which is accessible online at <https://njcourts.gov/courts/assets/supreme/reports/2019/minorityrpt.pdf>.

of fatal violence against transgender and gender non-conforming people. (p. 4)³²

For transgender, gender non-conforming, and non-binary people, the risks to safety and well-being are real; however, individuals often are unable to document a particularized threat against themselves, which some courts require and absent such documentation deny the motion to seal while some courts accept generalized threats to the safety of transgender, gender non-conforming, and non-binary as sufficient to warrant sealing.³³ In addition, self-represented litigants, who largely are unaware of the ability to file a motion to seal, either do not have this protective option available to them or opt not to seek a Name Change Order and thereby experience the continued social and administrative barriers resulting from not having government issued identification that aligns with their name and gender identity. The end result is that similarly-situated people endeavoring to complete the same transaction through the New Jersey Courts experience very different outcomes.

³² The full report is available on line at <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/FatalViolence-2020Report-Final.pdf?mtime=20201119101455&focal=none>.

³³ The Indiana Court of Appeals addressed the question of generalized harm versus particularized harm in the context of petitions to seal name change applications by transgender petitioners in two consolidated cases, In re the Name Change of A.L. and In re the Name Change of L.S., Court of Appeals Case No. 79A02-1703-MI-473, decided August 10, 2017. In brief, the Indiana Appeals Court held that proof of the generalized risk of harm facing transgender people is sufficient under Administrative Regulation 9 (Indiana's equivalent of New Jersey's Rule 1:38) so as to warrant keeping name change matters from public view.

This term, having considered these concerns in the context of adult name changes, the Committee believes that a more practical and efficient approach is for the Court consider making name change matters, both in the Civil Division and in the Family Part, confidential under Rule 1:38, the rule that addresses public access to court records and administrative records.

Rule 1:38-11 states:

(a) Information in a court record may be sealed by court order for good cause as defined in this section. The moving party shall bear the burden of proving by a preponderance of the evidence that good cause exists.

(b) Good cause to seal a record shall exist when:

(1) Disclosure will likely cause a clearly defined and serious injury to any person or entity; and

(2) The person's or entity's interest in privacy substantially outweighs the presumption that all court and administrative records are open for public inspection pursuant to R. 1:38.

Applying the principles set forth in Rule 1:38 to the well-documented generalized threats to safety and well-being that transgender, gender non-conforming, and non-binary people face in society, the Committee proposes it is appropriate to specify name changes in the list of enumerated exclusions from public disclosure set forth in Rule 1:38-3.

RECOMMENDATION 2021:11

Considering the safety concerns and privacy interests of transgender, gender non-conforming, and non-binary people who seek name changes in affirmation of their gender identity as well as others who seek name changes through the courts, the Committee proposes that name change matters be classified as excluded from public access under Rule 1:38. This recommendation establishes operational consistency, advances procedural fairness by eliminating the need to file a motion for sealing in individual cases, and promotes efficiency in the transaction of these matters.

B. Rule 4:72³⁴

Now that the newspaper publication requirement for all name changes has been eliminated, the Committee questions whether it remains necessary for court-affirmed name changes to become effective thirty days post-judgment. Procedurally, this thirty-day period previously provided time for the post-judgment publication to be completed. Because the publication requirement no longer exists, there does not seem to be a purpose for the delayed effective date of name change judgments.

Rule 4:72-4, Hearing; Judgment; Filing, currently reads:

Except as otherwise provided in [Rule] 4:72-1(b) and (c) regarding consent to a name change for a minor, on the date fixed for hearing the court, if satisfied from the filed papers, with or without oral testimony, that there is no reasonable objection to the assumption of another name by plaintiff, shall by its judgment authorize plaintiff to assume such other name

³⁴ The Committee understands that substantive action on this item and recommendation would be pursuant to the Court's referral of the Recommendation to the Supreme Court Committee on Civil Practice.

from and after the time fixed therein, which shall be not less than 30 days from the entry thereof. At the hearing, plaintiff must present adequate proof of his or her current name. Within 45 days after entry of judgment, a certified copy of the judgment shall be filed with the appropriate office within the Department of Treasury. If plaintiff has been convicted of a crime or if criminal charges are pending, the clerk shall mail a copy of the judgment to the State Bureau of Identification.

The Committee recommends that the language “ ... from and after the time fixed therein, which shall be not less than 30 days from the entry thereof...” be deleted and replaced with “...effective immediately.” This proposal also aligns with the procedural requirement under common law that allows for the use of other names without requiring a court order affirming the name change.

RECOMMENDATION 2021:12

The Committee respectfully suggests that Rule 4:72-4 be revised so that the Judgment of Name Change is made effective with the entry of judgment.

The proposed change in context would read as follows:

Except as otherwise provided in Rule 4:72-1(b) and (c) regarding consent to a name change for a minor, on the date fixed for hearing the court, if satisfied from the filed papers, with or without oral testimony, that there is no reasonable objection to the assumption of another name by plaintiff, shall by its judgment authorize plaintiff to assume such other name effective immediately ~~from and after the time fixed therein, which shall be not less than 30 days from the entry thereof.~~ At the hearing, plaintiff must present adequate proof of his or her current name. Within 45 days after entry of judgment, a certified copy of the judgment shall be filed with the appropriate office within the

Department of Treasury. If plaintiff has been convicted of a crime or if criminal charges are pending, the clerk shall mail a copy of the judgment to the State Bureau of Identification.

VII. Training, Education, and Professional Development

The Court has long recognized the value of training, education, and professional development. Twelve of the original fifty-three court-approved Minority Concerns recommendations consider some aspect of training, education, and professional development. Today, training, education, and professional development remain essential tools for realizing and sustaining institutional change and the elimination of structural bias and barriers to justice through the courts. The Committee's discussion here intends to support and build on the continuing efforts led by Judicial Education to equip judges in adjudicating legal matters in the context of New Jersey's continually growing diversity.

The Judiciary's coordinated training, education, and professional development efforts focus on both internal and external constituencies including: (1) judges, (2) leadership/management and non-managerial staff, (3) court volunteers, (4) law clerks, (4) students, (5) external stakeholders (including by providing continuing legal education), (6) litigant education (such as the procedural workshops the Ombudsmen offer), and (7) the general community. In the context of Diversity, Inclusion, and Community Engagement, these efforts also include education/information sharing with committee members and community partners

and the periodic provision of qualifying continuing legal education programs in partnership with the Vicinage Advisory Committees on Diversity, Inclusion, and Community Engagement.

This term, the Committee closely reviewed current training offerings for a range of court-system stakeholders. A joint presentation by five key Central Office units³⁵ involved in the design and delivery of professional development training, including anti-bias programming, provided a comprehensive picture of the robust nature of the Judiciary's efforts in these regards. The collegiality among these distinct work units clearly serves to advance the shared institutional goals and objectives.

In the context of the updated Diversity, Inclusion, and Community Engagement charge, the Committee has supported education and training that promotes the equitable and bias-free administration of justice through the state and municipal courts. The Committee recognizes the expansion of specific judicial education training initiatives designed to enhance individual and organizational

³⁵ The September 2020 plenary session featured presentation included updates and overviews by Judicial Education and Performance, Organizational Development and Training, EEO/AA, JISA (the Judiciary Institute for Staff Attorneys), and Volunteer Services. In addition, committee staff have provided updates on trainings Diversity, Inclusion, and Community Engagement program staff have presented.

capacity to ensure the vestiges of structural bias and the effects of implicit bias do not shape judicial decision-making or the delivery of court programs and services.

Directive #14-19 established the “Judiciary Enhanced Education and Training Initiative” with a focus on “the enhancement of existing training for judges in the areas of sexual assault, domestic violence, implicit bias, and diversity.”³⁶ The first program under this initiative was the Gender Violence and Bias Summit for state court judges that took place on October 28, 2019 (“the Summit”).³⁷ The Summit included a full day training including presentations on implicit bias, effective communication for judges to avoid actual and perceived bias on the bench, understanding gender violence, the neurobiology of trauma and its implications for the courts, the intersection of descriptive language and sexual violence, and interactive facilitated sessions where judges could synthesize and discuss the issues raised during the day.

The Committee, upon recommendation of the Conference of Vicinage Advisory Committee on Diversity, Inclusion, and Community Engagement Chairs, supports the Court's decision to offer these programs on a continuing basis and supports the Court's mandate that these topics be incorporated into all aspects of

³⁶ <https://www.njcourts.gov/notices/2019/n190717e.pdf?c=ACE>

³⁷ A separate similarly structured Summit was held on December 2, 2019 for municipal court judges.

judicial education programming, including new judges orientation, CJOP programs, practice area education conferences, and the Judicial College.

The positive impact of the Court recessing for a day to engage statewide in these critically important issues speaks volumes as to the depth of the institutional commitment to equity and procedural fairness in the administration of justice. The Committee believes it is critically important that these programs be held on a routine periodic basis as originally envisioned by the Chief Justice and Committee on Judicial Education. The return on investment in judicial education is incalculable. The addition of this programming is an essential supplement to the catalogue of core Judicial Education programs.

VIII. Public Education and Community Engagement

The community has been a central part of the Judiciary's Diversity, Inclusion, and Community Engagement work since the inception of Minority Concerns over thirty-five years ago. The Court has recognized this through the publication for comment of each of this Committee's reports, which advances engagement with the community-at-large and fosters public confidence in the courts. Moreover, the value of community engagement has been affirmed by the Court in the renaming of the Committee and the update of its charge.

The community engagement aspect of the New Jersey Judiciary's Diversity, Inclusion, and Community Engagement models has three key elements: (1) the

involvement of the general community including people outside the legal profession in the membership of the Supreme Court Committee and Vicinage Advisory Committees on Diversity, Inclusion, and Community Engagement; (2) the role that the Vicinage Advisory Committees on Diversity, Inclusion, and Community Engagement play in facilitating engagement with local communities; and (3) the role of program staff as a face of the courts in the community, serving as a conduit not only for providing information to the public and external stakeholder and justice system partners but also for bringing the community's needs, concerns, and ideas to the Court.

In the area of public education and community engagement, the Committee, as well as the Conference of Vicinage Advisory Committee Chairs and the Committee of Vicinage Advisory Committee Coordinators, focused its energy on: (1) the role of the Vicinage Advisory Committees, (2) evaluation of routine educational programming and identification of new areas of programming and opportunities to present virtual engagement programs, (3) the value of developing and offering facilitated community conversation style programs, (4) development of ideas for expansion of/enhancements to the student and youth engagement initiatives such as "One Judge, One School" and Law Day programs, and (5) ideas for continued community engagement via the Judiciary's web and social media presence.

Throughout this cycle, in particular during the height of the pandemic, the Conference of VAC-DI&CE Chairs and Committee of VAC-DI&CE Coordinators met virtually with greater frequency to foster cross-vicinage communication, promote collaboration and resource sharing, and develop innovative ways to connect with and provide court-related information to the community. The Committee of VAC-DI&CE formed a community engagement and virtual programming working group to: (1) identify constituent needs and non-contact outreach opportunities; (2) develop virtual programming ideas; and (3) formulate best practices for the production of virtual meetings and programs.

In June 2020, a statewide summit on access to the courts was held. This first ever statewide Diversity, Inclusion, and Community Engagement meeting included the chairs, coordinators, and membership of all fifteen Vicinage Advisory Committees on Diversity, Inclusion, and Community Engagement. Coordinated by the Central Office DI&CE staff collaboratively with the Chair of the Conference of VAC-DICE Chairs and the Committee of VAC-DI&CE Coordinators Working Group on community engagement and virtual programming, the event included over 200 attendees. Many assignment judges and trial court administrators also attended. To maximize input from the attendees, discussion prompts were used so attendees could provide feedback through a chat feature.

This approach was highly successful and provided a general framework for subsequent virtual programming such as the statewide Landlord/Tenant Community Resources Seminar Series co-coordinated by Communications and Community Relations (DI&CE and Litigant Services) and Trial Court Services (Civil Practice) with assistance from Central Office and vicinage IT staff. These efforts will be expanded during calendar year 2021 with a re-envisioned general community CJR outreach presented in a facilitated community conversation series designed to facilitate access to the courts and engagement with the community, modifying the approach taken by the Massachusetts Trial Courts in similar programming efforts.

Student and youth engagement initiatives, such as the “One Judge, One School” program and Law Day programming, remain areas of focus for the VAC-DI&CE, whether as a co-contributor or as a coordinator. Recognizing that virtual and hybrid learning presents challenges to many schools in terms of committing to the scheduling of virtual live court-presented programs, the VAC-DI&CE continue to explore innovative ways to sustain the school and youth engagement efforts. In addition, some VAC-DI&CE have found ways to do in-person community outreach in open areas employing social distancing, masks, and standard COVID-19 risk reduction protocols. Social media and expanded web-based resources also enable the Judiciary to reach the community, even if only virtually. Judges and staff remain committed to ensuring the court-community partnership that continues to symbolize

the New Jersey Judiciary Diversity, Inclusion, and Community Engagement Program.

IX. Conclusion

The Supreme Court Committee on Diversity, Inclusion, and Community Engagement is grateful for the Court's continuing leadership in eliminating structural barriers to justice and addressing the vestiges of institutional racism and effects of structural, explicit, and implicit biases on the administration of justice and judicial determinations. The Committee expresses sincere appreciation for the continuing privilege to serve in an advisory capacity to the Court in this critically important work and the opportunity to present this report and its recommendations.

/January 15, 2021

**Supreme Court Committee on
Diversity, Inclusion, and Community Engagement
2019-2021 Committee Roster³⁸**

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Kimberly Douglas – Subcommittee Staff (EEO/AA)
Crystal Wilson – Subcommittee Staff (Criminal Practice)

³⁸ The Hispanic Bar Association of New Jersey (“HBA-NJ”) anticipates submitting substantive comments on select recommendations during the public comment period once the HBA-NJ Board of Trustees has fully reviewed and discussed the report and is able to provide feedback reflecting the full breadth of its members’ practice area perspectives.