

Comments and Proposed Amendment to the  
Report of the Committee on Diversity, Equity and Inclusion

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NYSBA President (2003-2004)

Nineteen years ago, at the House of Delegates meeting in Cooperstown, it was my honor to take office as NYSBA President. In my installation remarks on that day, I addressed the House with respect to my program plans for my term of office.

Primary among my goals was to jump start what I considered to be NYSBA's moribund, and until then ineffective efforts, to increase diversity in its leadership and membership. Accordingly, at that time I created a Committee on Diversity and Leadership Development, which has since evolved into the separate committees on Diversity, Equity and Inclusion, and Leadership Development.

More important, because the overwhelming composition of the House and Executive Committee was male and white, I proposed in June 2003 that the Bylaws be amended to provide that for a period of ten years the House of Delegates and the Executive Committee would be expanded by adding At Large seats specifically designated for diversity purposes.

In recognition that this set aside would be, to some extent, a "quota", my proposal was that these special seats would exist for a specific period of time, in the expectation that NYSBA would within that period of time do the right thing and foster more diverse representation across the Board in the House and on the Executive Committee. These particular seats would be a starting point, and would be an impetus for diverse candidates to come forth for all of the other House and Executive Committee positions. Because most seats on the Executive Committee are filled without the input of the President or the Nominating Committee, this proposal would also provide a means to assure increasing diversity without regard to the selections made other than through the Nominating Committee.

Through expedited procedures initiated by me with the cooperation of then House of Delegates Chair Ken Standard, the Bylaw amendments to create those positions were reviewed, proposed and adopted, and the positions filled, at the January 2004 Annual Meeting.

Over the ensuing ten year period, my expectations were only partially fulfilled. The diversity At Large seats were filled as proposed. The House membership became more diverse as the various organizations and bodies charged with nominating House members proposed a greater number of diverse members. However, at the Nominating Committee, diversity candidates came forward for the designated diversity seats, but generally did not seek the other At Large seats.

To give the program more time to achieve the desired goals, when the first ten year period was coming to an end, I proposed that the initial ten year period be continued for another ten years so that NYSBA could make a greater effort to increase leadership diversity. I am pleased that this proposal was approved, and in 2004 we continued those temporary set aside seats for another decade.

That second ten year period is now coming to an end. While we have made much progress during that time, our concept of diversity also has expanded, and we have much left to do.

It is clear to me that we need to continue the provisions for designated diversity seats. However, it also remains clear to me that reliance upon quotas is wrong, and should be resorted to only as a temporary measure until the overall composition of our leadership is more diverse.

Our goal should not be to provide for a permanent quota system, but should instead be to achieve a state of equity in which we perpetuate a diverse leadership without having to designate specific positions for specific categories of members. We should also consider measures to increase representation in presently under-represented categories in addition to ethnicity and race, such as persons with disabilities, and LGBTQ persons.

Accordingly, while I support continued measures to enhance and accomplish diversity in our leadership, including continuation of these designated seats, I believe the current proposal to remove the “sunset” provision entirely, and make the designated diversity seat permanent set asides, is wrong, and is counterproductive.

I also know, as a member of the Bylaws Committee for many years, that the Bylaws Committee has been studying this very provision in the existing

Bylaws, and is formulating a proposal to be put before the House in the usual course for subscription at the November meeting, and approval at the January Annual Meeting. The appropriate language for such an amendment should be left to that Committee to draft, to the House to review when determining whether to subscribe to the amendment, and to the Association membership to decide whether to adopt it. For the House to adopt the Committee resolution as proposed, dictating to the Bylaws Committee to draft specific language for a Bylaws amendment, is a departure from precedent and a usurpation of the role of the Bylaws Committee.

For all of the foregoing reasons, I will move at the June meeting that before the House approves the Report of the Committee on Diversity, Equity and Inclusion, the last "Resolved" paragraph of that Report be amended to read:

"RESOLVED, that the House of Delegates hereby commends this Report to the Bylaws Committee, and directs the Bylaws Committee to prepare Bylaw amendments for submission to the Association at the January 2023 Annual Meeting to provide for selection of persons to serve as members of the House of Delegates and the Executive Committee to further ethnic, racial and other diversity consistent with the principles and commitments stated in this Report."