

DIVERSITY AT THE SEAT OF GOVERNANCE

As the process for filling at-large diversity seats on the Board of Governors changes, a look at their history and the new election process by the entire membership

BY COLIN RIGLEY

In December 1999, a meeting was convened between the WSBA Committee on Diversity and the Board of Governors as part of an effort toward “improving communications between the Board of Governors and minorities,” as then-District 2 Governor James E. Deno wrote in a summary for the Board.

“During this meeting we came to understand that there is a perception that the Bar Association Governors, committees, and perhaps even sections, are perceived as ‘insiders,’ and access is perceived as closed to minorities...,” Deno wrote. “We are told that minority members of the Bar feel that there is an unwritten system of rules and regulations that would operate to exclude them from meaningful participation in the governance process and that there is concern that even this effort may well only represent lip service, as opposed to a sincere effort to draw in and obtain true representation for the interests of minorities.”

A review of past Board materials indicates that the December 1999 meeting; Governor Deno’s summary of what was discussed; and, significantly, perspectives from historically underrepresented Bar members were part of the genesis for reshaping the WSBA’s governing body and adding governor positions now colloquially referred to as the at-large diversity seats.

Not long after, in May 2000, Loren Miller Bar Association (LMBA) President Sherri L. Jefferson wrote to the Board in support of a “minority seat,” saying: “LMBA supports the BOG taking such extraordinary measures in order to ensure inclusion of those who have traditionally been underrepresented, namely lawyers of color.”

These documents illuminate the origins of the at-large diversity seats. The specific language of the bylaws subsequently drafted by the Board and approved by the Washington Supreme Court to create these seats was deliberated, debated, and modified; however, the motivation behind creating these seats in the first instance was clear and largely aimed at increasing racial diversity on the Board.¹

The Board deliberated through at least early 2001. Governors at the time were in agreement about the necessity of “having a representative of the views of racial diversity,” but they wrestled with questions over how to increase representation for underrepresented WSBA members, and how, eventually, the seats might further diversify WSBA governance beyond race.

Though race was at the heart of early discussions, the WSBA Bylaws, as adopted, state that the at-large seats are intended to give voice to historically underrepresented members based on “age, race, gender, sexual orientation, disability, geography, areas and types of practice, and years of membership, provided that no single factor will be determinative.”

DIVERSITY: PAST AND FUTURE

Since 2001, 14 governors have served in the at-large diversity seats, about two-thirds of whom have been people of color. Of the 21 people of color who have had a seat on the Board during that time, 43 percent first served in the at-large diversity seats.²

Without the dedicated diversity seats, the Board’s overall representation from non-white members would drop from

about 20 percent to about 9 percent.

Similarly, 22 percent of the Board’s female governors first served in the at-large diversity seats. Without those governors in those seats, the Board’s gender diversity since 2001 would drop from about 26 percent women to about 20 percent. Five of the nine women of color first served in the diversity seats.

Nearly two decades after the seats were created, the question is not so much whether the at-large seats successfully diversified WSBA governance but rather what we mean when we talk about diversity and how to ensure that application of the WSBA Bylaws is consistent with that meaning.

Recently, the Board of Governors, responding to policy proposals from the WSBA Diversity Committee, attempted to answer the current question by recalibrating the at-large governor selection process.

Historically, at-large diversity candidates submitted their applications directly to, and were selected directly by, the Board. (Governors in other seats are elected by members in their congressional districts.)³ In January 2020,⁴ based on a proposal put forward by the WSBA Diversity Committee to open up the seats to membership-wide election, the Board voted to revise the WSBA Bylaws so that the full pool of at-large diversity candidates will initially be reviewed by the Diversity Committee, which will then nominate at least three candidates to the Board. The Board will then place those candidates on the ballot for a vote by the full WSBA membership.⁵

SIDEBAR

History of WSBA Board Diversity

First Female Board Member: Betty Fletcher, 1975

First Female WSBA President: Elizabeth J. Bracelin, 1988

First African American Board Member: Lemhard G. Howell, 1989

First Woman of Color Board Member: Zulema Hinojos-Fall, 2001

First Asian American Board Member: Marcine Anderson, 2004

First African American WSBA President: Ronald R. Ward, 2004

First Latinx and First Asian WSBA President: Salvadore A. Mungia, 2009

First South Asian WSBA President: Rajeev Majumdar, 2019

As was the case when the seats were created in 2001, the conversations around these seats almost 20 years later focused on both intent and definition. The Diversity Committee took up the issue at its November 2019 meeting where, according to the minutes, “There are concerns that the language of the definition does dilute the intention of creating more space for people who have historically been underrepresented in the governance of the WSBA.”⁶

Following the Board of Governor’s first reading of the proposed policy update, the Diversity Committee again took up the topic in January: “Questions were raised about the screening process and the general election process both adding hurdles for candidates. There were also questions about switching to a general election model, particularly when the definition of ‘diversity’ for this position remains broad and vague.”⁷

Diversity Committee Co-Chair Andrea Jarmon (who also served as District 8 governor from 2014-2017) told *Bar News* that the change in election

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Elect the next WSBA At-Large Governor: The WSBA Diversity Committee will interview all applicants on Nov. 7 and choose at least three candidates to be placed on the ballot. Ballots will be sent to all members eligible to vote on Dec. 1; completed ballots must be received by the WSBA by 5 p.m. PST on Dec. 15.

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Diversity at the Seat of Governance

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process is part of a commitment to an inside-out approach⁸ to diversity that goes beyond saying the words, but intentionally includes people on the Board who through systemic failures have been absent.

"The conversation about making sure that the intended spirit of the meaning of diversity was actualized in that seat arose from basically a disagreement about the very concept of diversity," Jarmon said. "Over time it seemed to be getting more and more expansive. You can't make it so expansive that it is actually rendered meaningless."

The outgoing at-large governor, Alec Stephens, also raised such concerns. Stephens is a civil rights lawyer admitted to the Bar in 1981, a member of the WSBA Diversity Committee, and a two-time chair of the WSBA Civil Rights Law Section. As the only Black member of the Board during his term, Stephens on multiple occasions raised the issue of diverse representation—and underrepresentation—among the Bar's governing bodies.

On June 27, the Board was tasked to select an at-large diversity governor under the old appointment process before the new bylaws went into effect, choosing from a pool of 14 applicants. (The selected candidate was later unable to serve and a new election process is underway, as you will see below.) At that June Board meeting, Stephens said that in trying to be more inclusive and avoid exclusionary language in defining diversity "it soon becomes language that dilutes especially the initial historic purpose [of the position]."

In his final message as an at-large governor, Stephens on Sept. 29 wrote in his Board of Governors meeting update⁹:


I have had situations where great candidates of color were overlooked, and the shield of justification around not increasing diversity is to lean on the altar of color-blindness, even though the lack of people of color is evident. This also overlooks the years when we have not been at the table. As it relates to the At-Large Governor positions, race and other areas of underrepresentation matter. They are important and need to be factored-in, not willfully overlooked.

A late and unexpected shuffle in the at-large governor position has now ushered in, sooner than planned, the first use of the new at-large selection and election process. At their June meeting, Board members made what was supposed to have been the last direct selection of an at-large diversity representative under the old rules, appointing Lisa Mansfield, a parent's attorney in Tacoma, president of the Pierce County Minority Bar Association, and community outreach vice president for Washington Women Lawyers. Mansfield subsequently was appointed to serve as a municipal court judge and withdrew before being sworn in as an at-large governor, once again creating an opening in one of the at-large seats. The unexpected opening has become an opportunity to fill an at-large diversity seat for the first time under a new process that will put more power over the makeup of the Board in the hands of the Diversity Committee and the full WSBA membership. The Board has expedited the election process, with the initial pool of candidates to be finalized by the end of October and the member-wide election planned for December.

As of this writing, six people had submitted an application for the seat. The Diversity Committee is scheduled to hold an interview and candidate-selection meeting on Nov. 7, followed by a Board of Governors candidate forum, with the election scheduled to run from Dec. 1-15 and a swearing-in ceremony scheduled for the newly elected governor at the Board's January 2021 meeting. (Learn more about the at-large candidates by visiting the Board Elections page at www.wsba.org/about-wsba/who-we-are/board-elections.)

According to Jarmon, the Diversity Committee will interview every candidate who applies for the position. It's part of the committee's commitment to model what it

means to be more inclusive, which among other things includes recognizing the barriers that exist for people and communities who have been marginalized, and providing them with a path to meaningfully participate and have their identities and values reflected in the organization.

"We want to make sure the door is wide open ...," Jarmon said. "If we are flooded with applicants, I think that's going to be a beautiful thing for us." 

NOTES

1. The Washington Race Equity & Justice Initiative (REJI)—of which the WSBA is a partner—Organizational Race Equity Toolkit defines racial equity as: "The condition that would be achieved if one's racial identity no longer predicted, in a statistical sense, how one fares." <https://justleadwa.org/learn/rejitookit/>.
2. These numbers are based on review of available materials in past Board agendas and meeting minutes, as well as previous issues of *Bar News*.
3. There is an additional at-large seat for a new and young lawyer, which is defined separately from the two at-large diversity seats.
4. www.wsba.org/docs/default-source/about-wsba/governance/bog-meeting-materials-2019-2020/board-of-governors-meeting-materials-january-2020.pdf?sfvrsn=20830f1f_4.
5. The bylaws further state, "If the Diversity Committee forwards less than three candidates the BOG may, at its option, select additional qualifying candidates on its own or place only those candidates forwarded by the Diversity Committee on the ballot to be elected by all eligible voting members." www.wsba.org/docs/default-source/about-wsba/governance/proposed-by-law-amendments/current-wsba-bylaws.pdf#page=34.
6. www.wsba.org/docs/default-source/legal-community/committees/wsba-diversity-committee/final-november-minutes.pdf?sfvrsn=1ca90f1f_2.
7. www.wsba.org/docs/default-source/legal-community/committees/wsba-diversity-committee/final-january-minutes.pdf?sfvrsn=dfc80ef1_0.
8. As explained in the WSBA's 2013 Diversity and Inclusion Plan, "inside-out" diversity "rests on a fundamental assumption that "WSBA's commitment to its own culture of inclusion and cultural competence provides the best foundation for meaningful progress." [www.wsba.org/docs/default-source/about-wsba/diversity/7-wsba-diversity-and-inclusion-plan-\(with-cover-page\).pdf?sfvrsn=85be38f1_1](http://www.wsba.org/docs/default-source/about-wsba/diversity/7-wsba-diversity-and-inclusion-plan-(with-cover-page).pdf?sfvrsn=85be38f1_1)
9. "Board of Governors Meeting Update From Alec Stephens September 2020," Sept. 29, 2020. www.wsba.org/docs/default-source/about-wsba/governance/bog-meeting-recaps/9-29-at-large-gov-update-september-2020_final.pdf?sfvrsn=b3890bf1_4.


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