



Endowment for Equal Justice Board Retreat

Wednesday, December 15th, 2021

Zoom call

MINUTES

Board Members Present: Rima Alaily, Beth Bloom, Bruce Brooks, Ellen Dial, Ele Hamburger, Kay Frank, John Hoerster (Co-President), Mark Hutcheson, Nancy Isserlis, Ron Knox, Dick Manning, Gail Mautner, Michelle Moersfelder (Co-President), Salvador Mungia, Margaret Niles, Gerald Schley and Michael Schwab

Guests: Dr. Caprice Hollins, Kevin Baker, Mike Pontarelo

Staff: Caitlin Davis, Natalia Fior, Arielle Handforth, Melinda Mann, Megan Simmons, Nancy Smith

The meeting began at 2:05 PM.

Welcome and Business

Michelle Moersfelder welcomed the board.

Approval of Minutes

The October 13, 2021 board meeting minutes were approved without edits.

Michelle reminded the Board that among the meeting materials is the Conflict of Interest form, and asked Board members to complete the form and send it back to EEJ staff as soon as possible. Dick asked for the form to be resent in Word version.

Board Planning for 2022

Michelle discussed Board plans for 2022, including officers, Committee chairs and members, and meeting dates. The Board elected as 2022 officers Michelle Moersfelder as President, John Hoerster as Vice President, Kay Frank as Secretary, and Margaret Niles as Treasurer and approved the committee chairs and members.

Michelle shared the list of renewing Board members and a motion to approve their renewal was made, seconded and passed without opposition.

Michelle then transitioned to the election of a new Board member as of January 1, 2022. Ron Knox shared that Mark Griffin, a potential new Board member, would be a fantastic addition to the EEJ Board. Recently retired from Keller Rohrback, Mark was appointed to serve on the LFW Board as a member and president ending in 2021, and still feels drawn to serve. Melinda added that Mark was responsible for the awarding of many cy pres dollars to LFW and is deeply committed to justice. Michelle added that Mark will be an asset to the board, with strong connections in the legal aid network. Mike Pontarolo echoed Ron's comments, adding that Mark has been a fantastic LFW Board member. Ron nominated Mark to become a member of the Endowment Board on January 1. The nomination was seconded and passed without opposition.

Presentation from DEI Consultant Caprice Hollins

Michelle and Ron shared that the search for a DEI consultant originated with an interest to continue to the race equity work initiated by the Board this year. Michelle reminded Board members that presentations taking place today are intended to give Board members insight into the possible programming provided by each consultant, and to give Board members an opportunity to ask questions and meet each consultant before moving forward with one.

Ron added that even though Board members may be interested in participating in race equity work, all Board members need continuing education and advancement in race equity work to continue to understand the need when it comes to legal aid. Melinda echoed Ron's comments, asking Board members to share some of the positive or negative experiences they have had with DEI consultants in the past that have shaped their expectations.

Dr. Caprice Hollins joined the meeting. Michelle shared that Dr. Caprice Hollins works for a group called Cultures Connecting LLC, which works with organizations in the for-profit and nonprofit sectors on race equity work and cultural development.

Dr. Hollins thanked Michelle for the introduction, and opened up a discussion about Diversity, Equity, Inclusion and Belonging work with the Board. Sal began by asking whether Dr. Hollins herself would be working with the EEJ Board. Dr. Hollins shared that Cultures Connecting is a team of four, and that she would lead sessions herself to build a relationship with Board members over time. Kay Frank asked Dr. Hollins about her distinct methodology when it comes to DEIB work in comparison to others in the field. Dr. Hollins shared that with larger organizations, the goal is to have those in an organization lead race equity work from within and be able to self-progress moving forward. Margaret Niles shared that previously, her DEIB experiences have been focused on collaboration across cultural differences and organizational efficiency with the populations they serve, and asked Dr. Hollins to speak to her intent to impact the Board through programming. Dr. Hollins shared that she would add detail to Margaret's question in her presentation. John Hoerster raised a question about the use of "Belonging" to DEI work. Dr. Hollins shared that the addition was inspired by John Powell's work, which speaks to the difference between holding positional power versus showing up in a space as one's whole self. Michelle asked Dr. Hollins to share her pitch, and to speak to the Board's interest in developing a sustainable cadence to race equity programming.

Dr. Hollins shared a graphic which represented her approach to DEIB work with the Board. Largely, the programming work done by Dr. Hollins is interested in undoing and challenging systems of oppression from a psychological perspective.

Michelle thanked Dr. Hollins for her time and experience on behalf of the Board.

Presentation from DEI Consultant Kevin Baker

Ron shared that Kevin Baker, the sole member of Baker Consulting, is the second consultant interviewed by the Endowment for DEI work. Kevin has a background in psychology and educational leadership, which informs his consulting work. Kevin focuses on creating an equity and inclusion lens for organizations he works with.

Kevin Baker joined the meeting, and thanked Ron for the introduction. Kevin shared that his mission is to end codeswitching. He is interested in creating spaces, especially work environments, where people can show up as their full selves. Oftentimes, the urgency of work overpowers an organization's ability for Board members to truly get to know one another and to have critical, graceful conversations. Kevin focuses on a practice called "calling each other in," bringing those we interact with into difficult conversations instead of isolating them. Kevin shared that he is not interested in creating "safe" environments. Instead, Kevin focuses on creating "brave" spaces without shame or blame. Kevin reminded Board members that although the larger goal is challenging institutions, people are what make up institutions.

Kevin opened the floor for questions. Ron asked Kevin to share more about his approach with respect to the EEJ Board. Kevin shared that although he believes DEI work to be a lifelong journey, he focuses on three- and two-hour sessions. Three-hour sessions are focused on information delivery and discussion, with a follow-up two-hour session focused on information processing and systems change. Gerry Schley asked Kevin about his experience with other organizations. Kevin shared that he has worked with the City of Seattle, the City of Tukwila, 60-70 nonprofit organizations, and is currently working with Rutgers University and Boys and Girls Club of King County. Bruce Brooks asked Kevin about his approach with a Board like the EEJ, which has a small staff, in comparison to other Boards. Kevin spoke to the ability of race equity work to radiate—as an outward-facing Board, the tools to practice race equity will have a large-scale effect wherever else Board members serve.

Kevin shared a graphic which detailed his theory of change. Ultimately, his goal is to work with organizations to get as close to "embodiment" as possible, practicing principles of race equity and social justice at all times. Kevin reminded Board members that ultimately, personal work must be done to practice race equity work each day.

Michelle thanked Kevin for his time and feedback on behalf of the Board.

2022-2024 Strategic Plan: review feedback and adopt Strategic Plan

Michelle opened the conversation about the Strategic Plan by thanking Board members for their input and efforts in crafting a final document. Michelle thanked Rima Alaily for driving the Strategic Planning process and invited her to lead the conversation on the Strategic Plan moving forward.

Rima provided a reminder that in October the Board conditionally approved the plan and statement of Purpose, Mission, Vision and Values. Since October, key stakeholder feedback and Advisory Council/LFW feedback has been gathered on the Plan, with revisions made to the initially approved document. The feedback gathered was used to fine-tune language in the Strategic Plan, with a redlined draft and a final version presented to the Board today. John shared that much of the feedback on the plan was overwhelmingly positive, with very thoughtful feedback from Jorge and Merf on the EEJ values statement.

Rima opened the discussion on the current version of the Strategic Plan with Sal Mungia's proposed edits. Sal raised a concern about the addition of "Encourage direct support of the Endowment by law firms" because it might cause conflict with Campaign for Equal Justice fundraising goals. Michelle explained that the change was not intended to be substantive but was meant to provide clarification to the groups being solicited for support by the EEJ through educational events, not fundraising efforts. Melinda added that historically, law firms have not been solicited directly by the EEJ. Caitlin added that over the past 15 years, LFW has made five contributions to the EEJ, and shared support for Sal's edit to avoid conflict or confusion.

John echoed the comments, while reminding the Board that one of the ideas surfaced in the Reach 20 feasibility study was a targeted approach to direct law firm solicitation. John recommended deleting the bullet point altogether to avoid confusion. Rima offered the option of rejecting the changes to the point and moving forward with the original text instead. Margaret shared that the change removed an element of collaboration from fundraising, and shared support for Rima's idea. Dick echoed Sal's concerns and pointed out that there is often donor confusion between LFW and the EEJ. Gail Mautner shared her support for moving back to the original language.

Sal shared another proposed edit to the Strategic Plan: on page 3, on the second to last point under Goal #2, "including supporting C4EJ's development of a major donor program." After extensive discussion, the Board decided to change the language to "coordinating with C4EJ's major gifts program."

Sal's next suggestion related to page 5, #1, where he suggested replacing "Leverage the expansion of" to "Expand." After discussion, the Board decided to change the statement "Increase the Board's racial diversity." On page 6, the last bullet point, Sal suggested changing the point to read: "Collaborate with Alliance members to engage law students, and staff, about the need to support civil legal aid both financially and through pro bono service." The Board agreed with this change.

Rima asked the Board for any additional feedback on the Plan. With no further edits, Rima proposed taking a vote on the Strategic Plan. Sal moved to approve the Strategic Plan with the amendments as detailed. The motion was seconded and passed without opposition. **Operations and Investment Committee**

Michelle thanked Ellen Dial for her efforts on the proposed Spending Policy and work to finalize the financials for 2022. Ellen first spoke about the 2022 proposed budget—this year, the budget has been laid out in accordance with the 2022-2024 Strategic Plan goals. Ellen thanked Nancy and Melinda for their efforts in preparing the budget, which will serve the Board moving forward.

Melinda shared that there are inflationary increases in operating expenses, reflected in the 2022 budget. Melinda also highlighted increases in ads and marketing costs and communications consulting, all of which have become critical in telling the EEJ's story during the pandemic. Ellen reminded the Board

that the budgeted increases, around 33%, are necessary to accomplish the Strategic Plan goals laid forth. This budget is designed to support the work of the EEJ in meeting these goals. The motion to approve the 2022 budget was seconded and approved without opposition.

Ellen transitioned to discuss the annual distribution to LFW based on the current Spending Policy formula. This year, the calculation is \$942,624. The motion to approve the 2021 distribution to LFW was seconded and approved without opposition. John shared that a cover letter to LFW detailing the distribution is typically sent after the approval of the distribution, which will be the next step this year as well. Kay asked John for confirmation of the funds under investment—John confirmed that currently, \$24,013,000 are under investment. Ellen pointed out that one of the goals of the Reach 20 campaign was a \$1 million disbursement each year, and that she was optimistic that this is a sustainable amount that the Endowment can continue to commit to.

Ellen introduced the third item for discussion, the proposed Spending Policy for the Endowment. Ellen clarified that the following aspects will not be changing: EEJ has the discretion to change a grant amount any given year, regardless of calculations. Additionally, the Spending Policy is a living document which will be revisited every three years. Ellen shared that the Spending Policy was reviewed by financial advisors for feedback and was found to be in line with other endowments and foundations. Financial advisors also shared that typically, 5% disbursement rates were too high for similar organizations. This learning, combined with market volatility, led the Committee to re-evaluate the 5% disbursement laid out in the Spending Policy. Ellen also shared that one learning from the Reach 20 campaign was clarifying the EEJ's distinct purpose, with a growing donor base with far more opportunities to expand. Ellen shared that it is important for the EEJ to be realistic about how costs are met during years when fundraising goals are not, and that adjustments to the Spending Policy should be made with insight from Canterbury Consulting in mind. Given these factors, the committee concluded that a 4.5% disbursement rate was more feasible than a 5% disbursement rate.

This proposed change to the Spending Policy was also made with LFW in mind, leading to the current proposal being reviewed by the board. Ellen shared that this proposal outlines that if a 4.5% disbursement any given year does not meet the \$1 million distribution, a 5% calculation would be used as a guardrail if and to the extent to allow for a \$1 million disbursement. Ellen reminded the Board that no changes to the Spending Policy can be made without consultation from LFW first being provided. Instead, Ellen asked the Board to approve a resolution that would provide a guardrail for LFW while the proposed new Spending Policy is considered in 2022. The Operations & Investment Committee asks the Board to decide regarding the Spending Policy by no later than July 2022. John shared that the Board is eager to engage with LFW on the Spending Policy before finalizing a decision, which has led the Board to delay approval of the Spending Policy at today's meeting.

Margaret clarified that historically, the purpose of the Endowment has been to provide sustainable, lasting support for civil legal aid with intent to grow. The proposed Spending Policy provides flexibility for the disbursement to hopefully be larger than \$1 million based on the successful fundraising of the Endowment year over year. Margaret asked Board members to take the long-term goals of the Endowment into perspective, accounting for an uncertain by implementing a sustainable disbursement amount. Michelle echoed Margaret's comments, reminding the Board that they are committed to supporting both donors and LFW while also growing the corpus of the Endowment, which was the basis for the change in the disbursement percentage. Ellen added that Canterbury Consulting's Monte Carlo

projections confirmed that by adopting this spending policy, disbursements of over \$1 million would be feasible to make annually to LFW.

Gail raised a question about the timing of adopting the resolution, clarifying the need to vote on the resolution today. John clarified that this was an effort to provide a safeguard to LFW, providing guardrails while a change in the policy is under consideration. Ele Hamburger offered that the EEJ is not like other endowments, as its disbursement is focused on a single organization. Ele asked Board members to consider how this unique arrangement can respond to the demonstrated need of civil legal aid organizations, and shared concern for lowering the disbursement to 4.5% at this time based on available funding for legal services. Ele asked the Board to wait on adoption of the resolution at this time until an assessment of need for civil legal aid support is completed. Margaret responded, confirming that the EEJ is in a unique position as a funder, but asked Board members to consider the long-term responsibilities and mission of the EEJ, not just the current demonstrated need.

Mike Pontarolo shared appreciation for Ellen's presentation on the background of the Spending Policy changes. Mike asked the Board to reflect on whether the purpose of the Endowment was to increase in terms of its own funding, or to be nimble and flexible in providing funding to civil legal aid organizations. Mike assured the Board that LFW is committed to collaborating with the Endowment, with the hope for continued reciprocity as the EEJ balances its need to endure for sustainable funding while still making meaningful disbursements to LFW. Nancy Isserlis echoed Ele's comments about the stability that the EEJ can provide to civil legal aid programs, especially in terms of unrestricted funding. Nancy asked Board members to consider the needs of clients when making determinations about disbursements to LFW.

Bruce Brooks asked Ellen whether LFW had an opportunity to review the full Spending Policy proposal before the Board meeting. Caitlin addressed Bruce's concern, sharing that an 11/3 draft was provided for review which did not outline the guardrails developed in the proposed resolution. Ellen, John and Michelle clarified that the 11/3 draft also included the guarantee of a \$1 million disbursement with proposed guardrails. Michelle offered that documents provided to LFW were intended to support a fully detailed discussion about the disbursement.

Dick Manning shared support for Ellen's resolution but offered that a decision on the resolution could wait until early 2022 for continued conversation. Dick reminded Board members that both the Endowment and Campaign for Equal Justice share the mission of providing support for civil legal aid, and that current return rates, although high, are not sustainable.

Bruce asked for clarification whether it was LFW's preference that a resolution not be passed at the current meeting. Mike shared that while the original 5% was preferable, it may be in the best interest of both the EEJ and LFW Boards to defer a decision on the resolution to the new year. Caitlin clarified that the two-year grant agreements made by LFW may leave the organization open to risk. Margaret reminded Board members that the draft resolution is a proposal and has yet to be decided.

Mark shared that in terms of need, there will always be more need than the EEJ is able to address in a disbursement. Mark also shared that if disbursements are consistently made that are larger than earnings each year, the endowment will be adversely impacted. Mark also reminded LFW that increasing inflation rates will lead to increased IOLTA funding.

Gerry reminded the Board that as a donor to both the EEJ and C4EJ, his expectation as an EEJ donor is that a sustainable distribution is made annually to provide stable income where the C4EJ may not be able to. Ellen shared that it has always been the position of the Operations and Investment Committee and the larger EEJ Board to provide a stable, \$1 million disbursement to LFW. John clarified with Mike that the resolution that was previously sent to LFW was intended to provide comfort that a \$1 million

disbursement would be made to LFW while the EEJ Board determined the final updates to the Spending Policy.

Michelle asked Ellen about proposed next steps. Ellen recommended a motion to approve the resolution previously outlined. Ellen clarified that the resolution does not tacitly consent to a reduction in the spending percentage. Michelle moved to approve the following resolution, which was approved with Beth Bloom abstaining:

If EEJ adopts a spending policy that reduces the spending percentage below 5% and that reduced percentage would yield a disbursement of less than \$1 million in 2022, the spending percentage for 2022 will be increased to 5% if and to the extent necessary to disburse \$1,000,000. (By way of illustration, assume that in 2022 the policy's spending percentage is reduced from 5% to 4.5%. If the disbursement would be \$950,000 at 4.5% and \$1,055,555 at 5%, the disbursement would be \$1,000,000; if 4.5% would yield \$1.2M, that would be the disbursement; and if 5% would yield \$900,000, that would be the disbursement.)

Committee Reports

No committee reports were made at this meeting.

The meeting ended at 5:20 pm.

Respectfully submitted,

Megan Simmons
Development Associate, Endowment