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Increasing Diversity in Law: 3 Ways to Move Beyond Lip Service

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...law firms and legal departments can be doing more to measurably increase diversity.

A recent study found an [overall culture of implicit gender bias in major law firms](#), which often also unconsciously extends to other diverse lawyers, employees, and professionals who work in or for law firms and legal departments. The authors of the study called for urgent remediation, as “we are way past the point when mere lip service to the goal of equality in the legal profession will suffice.”

Many law firms and departments have made significant investments in recent years in an effort to level the playing field, improve their diversity and culture of inclusion, and decrease gender bias, but law firms and legal departments can be doing more to measurably increase diversity. Below are three new ways to do so.

1. Include the Entire Ecosystem in Diversity Counts

In conjunction with already making significant efforts to increase diversity and inclusion in their lawyer ranks, many law firms and departments could start to count, track, and report in their formal diversity tracking, reporting, and scorecards *in-house business and professional staff who are not licensed or practicing lawyers and external vendors, businesses and firms that are certified minority- or women-owned entities.*

Why?

Because legal talent does not consist of lawyers alone. Both law firms and legal departments hire and rely heavily on other qualified in-house professionals, many of whom are not licensed lawyers. These professionals serve in-house in almost every law firm and legal department in areas such as legal operations, administration, human resources, information technology, client service, marketing, new business and client development, and other critical business functions.

But many (not all) practicing lawyers tend to unconsciously minimize or dismiss those who are not licensed or practicing lawyers. In fact, the recent study cited above found that when asked, most lawyers say they already are very supportive of women and diversity, yet women (and likely others who are diverse) think and experience otherwise. There remains implicit bias.

This is unfortunate, because many professionals who do not hold a law degree or are nonpracticing lawyers are very talented and experienced, and without them, the operations in many law firms and legal departments would quickly grind to a halt.

For example, many business professionals who work in and for law firms and legal departments prefer not to be called or referred to as “nonlawyers,” even in a tongue-in-cheek manner, because it implies that a lawyer is somehow superior to those with other degrees, certifications, capabilities, and skills. It would be more productive to use the term “business professional” or “allied legal professional” instead of nonlawyer. So ask yourself whether diverse professional and business staff hires and current business and allied legal professionals count as diverse hires in your law firm or legal department and are tallied in the firm’s or department’s diversity scorecards. If not, maybe it’s time to consider doing so.

In addition, almost all law firms and legal departments use external vendors regularly for a variety of projects and tasks, such as for staffing, information technology support, training and coaching, expert witnesses, and in numerous other areas. Many external vendors are certified minority- or women-owned businesses and entities, yet most law firms do not track their use of diverse external providers (but many corporate legal departments do track this). If minority and diverse external vendors used by your law firm or department do not currently count as diverse hires/employees, perhaps it’s time to consider adding them to the firm’s diversity scorecard.

Twenty years ago, in 1999, the *Diversity in the Workplace* (aka the Call to Action) commitment was signed by the chief legal officers (CLOs) of about 500 major corporations. It was designed to encourage law firms to assign more work and leadership roles to diverse lawyers, and many corporations created a diverse set-aside for outside legal work to be sent to diverse lawyers and firms. Did it make an impact? Certainly some, but because there was no overall, formally organized tracking of the total efforts in aggregate, the results were not as strong as they could have been.

2. Increase the Commitment to Diversity

The two most recent professionally organized and run diversity initiatives described below are already making a measurable difference in the actual diversity within law firms and corporate legal departments. Yet, not all law firms or legal departments have signed on or committed to them.

If your law firm or legal department has not yet committed to the [Mansfield Rule](#) or signed on to the [Move the Needle Fund](#) collective projects, consider doing so.

[Diversity Lab](#), founded and led by [Caren Ulrich Stacy](#), created and launched these two major diversity initiatives:

a) Over 100 major law firms have signed on to and made a commitment to the [Mansfield Rule](#), which requires the firm to measure whether at least 30% women, attorneys of color, LGBTQ+ individuals, and lawyers with disabilities have been considered for leadership and governance roles, equity partner promotions, formal client pitch opportunities, and senior lateral positions. Lisa Kirby, Diversity Lab's Chief Business Intelligence & Knowledge Sharing Officer, who leads the Mansfield Rule effort, had this to say about the results so far: "We're so thrilled to see that two years into this initiative, the forward-thinking law firms participating in the Mansfield Rule have already reported some significant cultural changes as well as meaningful results. For example, 65% of participating firms promoted a higher percentage of diverse lawyers into the equity partnership, and 79% of participating firms reported that their lateral partner hiring pool was more diverse following adoption of the Mansfield Rule."

In addition, over [20 corporate legal departments](#) have also signed on and committed to applying the [Mansfield Rule](#) to their department's operations. These legal departments are asked to consider at least 50% historically underrepresented lawyers for 70% or more of the leadership roles and activities identified below:

- External hiring and/or promotions for top roles (e.g., general counsel (GC), CLO)
- External hiring, internal transitions, and/or promotions to senior-tier management (e.g., reporting to GC, assistant GC, deputy GC, head of compliance, legal operations chief)
- External hiring, internal transitions, and/or promotions to mid-tier management (e.g., reporting to senior-tier managers)
- External hiring, internal transitions, and/or promotions to other lawyer positions
- Hiring for interns or temporary lawyer positions (e.g., law clerks, summer 1Ls, secondments)
- Discretionary high-visibility opportunities (i.e., not tied to a particular role or position) that provide skills building and exposure to internal and external business leaders
- Written and transparent job responsibilities for senior and mid-tier management roles

- Written and transparent processes for advancement opportunities and promotions within the legal department
- Engaging outside counsel for new matters (i.e., lead and/or primary team members)
- Changing or expanding outside counsel representation (i.e., lead and/or primary team members)

b) The [Move the Needle Fund](#) (MTN), launched in September 2019, is a collaborative effort consisting of founding law firms — Eversheds Sutherland (US); Goodwin; Orrick; Stoel Rives; and a fifth, to be chosen soon through a blind selection process — that will be and are working on:

- Together, investing more than \$5 million in diversity efforts over five years;
- Setting aggressive, public firm-specific diversity goals;
- Experimenting with innovative methods to achieve them;
- Measuring the outcomes; and
- Sharing the results — including the successes and failures — with each other and the community.

To achieve these goals and to serve as a model from which others can learn, MTN will leverage the \$5 million investment made by the five firms to:

- Experiment with new approaches to hiring, work/life integration, work allocation, sponsorships, promotions, feedback, performance reviews, and compensation systems;
- Implement the [Diversity in Law Hackathon ideas](#);
- Test evidence-based research such as the [bias interrupters](#) from the American Bar Association and the Minority Corporate Counsel Association study as well as other inclusion research from top academic institutions; and
- Crowdfund innovative ideas from other industries.

Since its launch, MTN has been joined by over [25 GC and CLOs](#) who have committed to requiring their potential and current outside counsel law firms to consistently and progressively staff matters with diverse teams and lead lawyers. As Caren Ulrich Stacy stated, “The MTN effort combines the four critical elements that research has shown will create and sustain transformational change — collaboration, transparency, measurement, and accountability.”

3. Hire a Dedicated Diversity Developer

One major law firm (a firm already committed to the two Diversity Lab initiatives described above and many other diversity initiatives) is hiring a full-time, in-house Diversity Developer, a new client-facing position being filled by a seasoned nonpracticing lawyer, who will be dedicated to providing expert support and coaching to help all the firm's diverse lawyers develop client and referral source relationships and improve client service.

The new Diversity Developer's job is to proactively and upon request work with, coach, and help diverse partners and lawyers implement their annual plans and goals, identify appropriate opportunities for new work and new clients, vet those opportunities, prepare and participate in proposals for new work, manage follow-up, and engage in related activities.

There is a lot still to be done in order to meaningfully increase diversity and decrease gender disparity in law. The initiatives described above will likely help, but every law firm, legal department, lawyer, vendor, legal industry association, and group needs to make consistent and out-of-the-box efforts over time in order to measurably increase diversity.

*

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