

# BarLeader

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## Beyond diversity: The bar leader's role in fostering inclusion

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By Marilyn Cavicchia

In 1953, for the first time, Harvard Law School admitted women as students.

But it didn't build any women's restrooms—and when the female students mentioned this problem, the law school installed a toilet for them in a janitor's closet. In the basement.

The subject matter might make this anecdote a little bit funny, but according to Vernā Myers, principal at Vernā Myers Consulting Group LLC, it also illustrates a serious difference in terms. Harvard did increase its diversity by admitting those first women, Myers told attendees at the ABA Bar Leadership Institute in Chicago this March, but it didn't move beyond diversity to something even more important: inclusion.

*Diversity* is counting, and *inclusion* is cultivating, explained Myers, an expert on diversity and inclusion in the legal profession and author of *Moving Diversity Forward: How to Go from Well-Meaning to Well-Doing*.

To put it another way, she said, "Diversity is being invited to the party, but inclusion is being asked to dance."

The work of a bar leader, Myers believes, is to notice "who's here and who's not here"—among the leaders in the room at BLI, and also at your own bar association—and find ways to reach out and include those who are missing.

### Inviting different

As in the Harvard example, it's not enough just to say that all are welcome. "You can't invite *different* and expect the same thing," Myers said, noting that an institution that aims for inclusion must

### About *Bar Leader*

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be willing to do some things differently, in order to make that welcome more sincere.

When trying to increase diversity and inclusion in membership and leadership, Myers noted, many organizations will seek out the straightest-acting lesbian, gay, bisexual, or transgender person, the whitest Latino, the most masculine woman, or "the most boomer-ish millennial"—that is, someone whose differences from the majority of the organization are not perceived to be extreme.

Further, she said, many organizations bristle at the idea that people who are different in some way from many others in the group might have different needs and wants, which can and should be accommodated. Paraphrasing the shocked leaders of Harvard Law in 1953, Myers said, "We let you in—and now you want to go to the bathroom?"

It would have been easy enough, Myers noted, for those leaders to find out what it was that the female students would need. They could have asked another school that had already admitted women, she suggested, or they could have conducted a focus group and asked the women who participated to let them know of anything that was missing.

Many times, Myers added, organizations mean well but fear asking simple, but tough questions. Often, she said, in a new or uncertain romantic relationship, one partner says to him- or herself, "I should ask how they're doing, but I don't really want to know." Bar leaders might be similarly fearful to ask about how the bar is doing with diversity and inclusion, Myers said, lest the response be less than positive or present a need that the leaders didn't anticipate. But just as in a romantic relationship, she noted, avoiding those questions often means longer-term, deeper problems down the road.

But before you ask lawyers who have a difference that typically falls under the diversity definition how you're doing and how you can improve, Myers advised, make sure you're open to solving any problems that you might hear about as a result.

"If you get information but don't use it to make change, that is a problem," she said.

**Beware the fish in water**

It's possible, Myers said, that the leaders at Harvard Law in 1953 didn't build women's restrooms because they simply had no idea they were missing: After all, they were able to use the restroom quite easily, so they assumed everyone else would be, too.

This is called a "fish in water" problem, Myers said; that is, we all have a certain environment and things that we know and are comfortable with—and we might have no idea that someone else is uncomfortable.

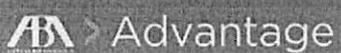
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"When you make, create, or shape something," Myers said, "without cultural competency, it will suit you best." By *cultural competency*, Myers meant being aware of cultural and other differences and actively looking for ways to learn more and to be more inclusive.

Building cultural competency often means admitting that you need some guidance—and that can be tough for lawyers, said Myers, who is a lawyer herself. "If we don't know things," she joked, "we pretend we know them."

### **Know your biases**

Everyone who is trying to be more culturally competent and inclusive occasionally has some stressful or embarrassing moments when a personal bias slips out, or when it's tough to find the right words—and all too easy to say the wrong ones, Myers said.

"We are all biased," Myers said. "No one escapes it unless they're not human." The human brain is designed to sort people and things very quickly, she explained, according to what's alike and what's different, or what's safe and unsafe.

Even if we consciously reject stereotypes and other negative beliefs, Myers said, we all still hold hidden, or implicit, biases based on such factors as our background, how we were raised, and our life experiences. These implicit biases often come out during stressful times, she noted.

For example, before a recent flight, Myers observed that the pilot was a woman. The field of commercial aviation still has relatively few female pilots, so she was especially pleased to see this one, she recalled. But when the plane encountered some turbulence, Myers's first thought was, "I hope she can drive"—something she never would have thought about a male pilot in the same situation.

(If you don't believe you have any implicit biases, Myers suggested that you test that idea at [implicit.harvard.edu](http://implicit.harvard.edu).)

The problem with biases, even those hidden ones, Myers said, is that "they are more predictive of behavior than anything else." They tend to come out as "micro insults," she added, meaning small, perhaps unintended slights that accumulate and become more painful over time, "like tiny paper cuts."

A micro insult is often so small that the other person doesn't complain about it—though he or she might eventually "say something by walking," Myers noted.

And you might have meant to say something nice, Myers added: "Embedded in our compliments are often our unconscious biases." An example might be if the bar association says it is seeking a "qualified" woman to serve in a leadership role, when it wouldn't say such a thing about a male candidate.

## Keep trying

If we all have these biases and have such a high risk of accidentally hurting each other, what can we do? Myers said this is another great reason to work toward diversity and inclusion, including among those closest to us. "We need a lot of people's worldviews," she explained. "We can't trust our own."

Consciously resist those unconscious sorting impulses, she advised. For example, when coming up with a list of people who might serve in leadership roles, stretch yourself to go beyond those who first come to mind, Myers recommended; a phenomenon called "in-group favoritism" will cause you to look for others who are like you, which means that "your mental list is corrupted with biases."

Consider going a step further, Myers suggested, by borrowing from the National Football League and other professional sports organizations something called the Rooney Rule, which says there must be a diverse slate in order for a leadership position to be filled.

Are there certain unspoken "fish in water"-type rules about how to get ahead in the bar association? Make those more clear, Myers said, adding that orientation classes might help.

Whether on the staff or among the elected leadership, Myers advised, "Don't promote people to positions of power if they're not demonstrating inclusion." This is a very common mistake, she noted, and one that does not speak well for the bar's real commitment to inclusion.

At bar events, seek out those who seem a bit isolated or who look as if there aren't many other people like them in attendance. "You have to be proactive," Myers said. "Say hello to people. It's just basic." Whatever your background, she added, chances are, you've felt excluded at times. Think about what would have helped you, she said—and then do those things for the person who seems lonely now.

Look at the bar's website, including the mission, the vision statement, the timing of events, the photos, and all the other elements that might or might not be sending an inclusive message, Myers suggested. And stretch a little here, too, she said; for example, do all the event photos show people drinking alcohol?

Build relationships with affinity bars, the young lawyers organization, and other such groups, Myers recommended; attend their events, "but with humility," she said, and with the aim of finding out what they need and how the mainstream bar can help. Even if you fail to make a real connection this time, she added, keep at it—there's no "silver bullet," and people's lives and needs change over time.

What if all else fails, and you realize that you've accidentally done or said something hurtful? Know how to apologize simply and sincerely, Myers said—and know that everyone makes mistakes, and that the important thing is to keep trying. "If perfection is your thing," she said, "this is not your gig."

And make sure you're not the only one striving for cultural competency and inclusion, Myers advised; consider diversity training for both staff and elected leaders, so everyone can become more at ease with talking about these matters and working to improve.

"You have to be uncomfortable," Myers said, "before you can get comfortable."