

# Best Practices for Law Firms & Corporations Seeking to Retain Diverse Attorneys

DIVERSITY AND INCLUSION



We continually hear that the legal profession is one of the least diverse professions. We also continually hear that the legal profession is one of the unhealthiest professions. These characteristics of the legal profession are not novel traits, and in fact, have been plaguing it for decades.

There is certainly an overlap between diversity, mental health and well-being in the legal profession. The COVID-19 pandemic and all of the economic, political, racial, and social unrest prompted an awakening. Matters that had been largely avoided, ignored, minimized, and discredited could no longer be avoided or dismissed. The discord that exists in our

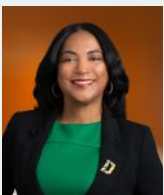
world had been openly revealed – like a wound that refused to heal as it remained covered for too long with a bandage. Once that bandage was ripped off, the wounds that were revealed served as reminders of the unjustness of our society. Those reminders evolved into a reckoning.

These issues were now placed on the forefront of not only all methods of news reports, broadcasting channels, but also most organizations announced a stance on their position, vowed to do their parts to effect change, enlisted the assistance of consultants, carved out roles for diversity practitioners, and re-examined their cultures, policies, and practices. Long overdue

conversations ensued, and those conversations must continue. A sleeping giant had now been awakened.

The legal profession, as did so many other professions, began to engage in efforts to attract and recruit diverse talent, implemented measures to sustain their viability, sensitized their actions and attitudes towards their existing diverse team members, and sought ways to improve their efforts. We vocalized our efforts and identified ways we could show and prove how we considered DEI to be a core value and organizational priority. We began to figure out ways to align our efforts with those values and priorities. But, have we done

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enough, particularly since the legal profession continues to lag in its DEI scorecard when compared to other professions? What more could we do and what more should we do to support and retain diverse attorneys? This discussion aims to assist law firms and corporations define ways they can foster a more inclusive work environment, build and improve the culture of their organizations, and support the overall mental health, well-being, and wellness of their diverse attorneys.

### The Ongoing Challenges Posed By The Lack of Diversity, Equity, Inclusion, & Belonging and the Increase in Mental Health & Wellness Challenges Facing Attorneys

Diversity and mental health remain forefront issues as the past three and one-half years resulted in an internal shift within the legal profession, and most importantly, for legal professionals as well as organizations. Individuals began to closely evaluate their personal and professional goals and assessed whether their respective organizations were in alignment with those goals. If not, no longer were these individuals cautiously optimistic about remaining with a particular organization, either hoping to experience improvement or in anticipation of obtaining a more suitable opportunity. Instead, they began to leave their organization, and this profession, by leaps and bounds. Organizations, particularly law firms, began to feel the brunt of the exodus with a shortage of lawyers to handle the workloads.

Also, with the war for talent being in full force, organizations, again particularly law firms, began to restructure their compensation packages in efforts to recruit and retain talent. Nevertheless, the experiences of those who are from traditionally underrepresented groups are still largely unfavorable and discouraging when compared to their colleagues who are not considered underrepresented. There has been an increase in the numbers of individuals entering the legal profession from those underrepresented groups, which is encouraging. However, whether they tend to remain in the profession is a story that is not so encouraging. The departures appear to have leveled (somewhat), and recruit-

ment and salary packages have become more robust, but the journey to achieving more equity and well-being in our profession continues. While the doors now seem to swing wide open, the statistics often suggest otherwise. “Are the doors simply revolving?” is a more important question we must answer.

## Are the doors simply revolving?” is a more important question we must answer.

### Defining the Building Blocks: Diversity, Equity, Inclusion and Belonging

The definition of “Diversity” has evolved in terms of its expanse and meaning. What was once known as “Diversity” in the workplace has now evolved into what’s considered organizational principles, values, and considerations to achieve a more equitable, inclusive, supportive, and healthy work environment. This has resulted in a holistic approach to “Diversity.” Understanding these concepts and how they differ are excellent starting points to address when considering efforts to recruit and retain diverse attorneys.

### What is Diversity, Equity, Inclusion & Belonging (DEIB)?

**DIVERSITY** is the presence of people from various races, genders, nationalities, political preferences, religions, ethnicities, sexual orientations, physical abilities, and/or socioeconomic strata (<https://www.growthspace.com/glossary/deib>).

### Examples of Diversity

- *Gender Diversity:* What makes up the composition of men, women, and non-binary people in a given population?
- *Age Diversity:* Are people in a group from mostly one generation, or is there a mix of ages?
- *Ethnic Diversity:* Do people in a group share common national or cultural traditions, or do they represent different backgrounds?

- *Physical Ability and Neurodiversity:* Are the perspectives of people with disabilities, whether apparent or not, accounted for?

<https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-diversity-equity-and-inclusion>

**EQUITY** is the existence of impartiality, fairness, and justice in terms of policies and distribution of resources within an organization. In an equitable organization, outcomes are fair for everybody. Are you setting everyone up equally for success? EQUITY does not mean EQUAL.

### Examples of Equity in the Workplace

- Build DEIB programs that are inclusive of health conditions or disabilities. For example, employees that are neurodivergent require supportive work conditions that help them thrive. This could be offering neurodivergent coaching to the employees or providing distraction-free workplaces, for example.
- By providing pay transparency to your workforce, your organization promotes pay parity and pay equity. It also helps to close the gender and racial pay gap. <https://www.betterup.com/blog/equity-in-the-workplace>
- Focus on skills-based hiring, make your job descriptions accessible, provide training and resources for all your employees and equitable benefits. <https://recruitee.com/articles/equity-in-workplace>

**INCLUSION** is the degree to which diverse employees participate in development opportunities and decision-making processes within an organization. In an inclusive organization, employees are able to express their point of view without fear. In addition, they receive constructive feedback and due consideration of their opinions.

Inclusion is an organizational effort and practice in which different groups or individuals having different backgrounds are culturally and socially accepted and welcomed.

These differences could be self-evident, such as national origin, age, race and ethnicity, religion/belief, gender, marital sta-

tus and socioeconomic status or they could be more inherent, such as educational background, training, sector experience, organizational tenure, even personality, such as introverts and extroverts.

<https://globaldiversitypractice.com/what-is-diversity-inclusion/>

**Examples of Inclusion in the Workplace**

- Organize team building activities.
- Prioritize the participation of all workers in company-wide celebrations.
- Provide equal access to resources.
- Be open to different viewpoints from team members.
- Have open and honest conversations about unconscious bias.
- Set up clear inclusion policies and guidelines.
- Provide inclusive training for your workforce.
- Regularly research to understand your team’s needs (mental health awareness, accommodations for disabilities, access to equal professional development opportunities)
- Invest in Employee Resource Groups (ERGs)
- Introduce workers to inclusion policies during onboarding.

<https://teambuilding.com/blog/inclusive-workplaces>

**BELONGING** – Do employees feel as if they belong? The focus is on feeling. Employees feel included irrespective of who they are or what they identify themselves as.

<https://blog.vantagecircle.com/inclusion-at-the-workplace/>

**How Does DEIB Make Your Workplace Better?**

*DEIB is more than a business case.*

Law firms and corporate organizations realize that DEIB is about more than making a business case for their organizations. DEIB is about representation and reflecting the world in which we live and of those whom we serve.

Additionally, diversity in an organization leads to:

1. Better teams,
2. Greater innovation, and
3. More efficient decision-making.

But inclusion is what connects people to the organization and makes them want to stay.

<https://blog.vantagecircle.com/inclusion-at-the-workplace/>

<https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-wins-how-inclusion-matters>

**DEIB Statistics Remain Problematic for the Legal Profession, Particularly in High-Level Leadership Ranks**

The National Association for Law Placement, Inc. (NALP) released its 2022 Report on Diversity in U.S. Law Firms. Diversity comprised the following categories: Women, People of Color, Lawyers with Disabilities, LGBTQ Lawyers, and Lawyers who are Military Veterans. Those categories achieving the largest gains included women, people of color, and LGBTQ individuals in the associate and summer associate ranks. However, law firm leadership, specifically the partnership ranks, still had abysmal statistics ([https://www.nalp.org/uploads/Research/2022NALPReportonDiversity\\_FinFi.pdf](https://www.nalp.org/uploads/Research/2022NALPReportonDiversity_FinFi.pdf)).

Considering this, recruitment efforts seem to have improved, but advancement and retention remain stagnant. This supports the revolving door syndrome previously mentioned where more diverse attorneys are entering the profession, yet they are not attaining high levels of leadership within their organizations. As a result, they are leaving their organizations, particularly law firms, and are seeking alternative employment within corporations and/or alternative careers. So, how can law firms and corporations counter these disappointing numbers? What assurances and incentives can law firms and corporations provide to their diverse attorneys that this will not be their story?

The data and graphical depictions are telling and a few of the statistics are provided below. Of the firms surveyed in 2022, below is the breakdown for the various diverse groups. (The report also provides statistics for Non-Traditional Track/Staff Attorneys and Summer Associates, but those categories were not included in the above discussion.)

WOMEN AND PEOPLE OF COLOR AT LAW FIRMS (Excerpt from Table 1)		
PARTNERS	ASSOCIATES	COUNSEL
26.65% Women	49.42% Women	38.00% Women
11.40% People of Color	28.32% People of Color	12/68% People of Color
4.39% Women of Color	16.51% Women of Color	6.45% Women of Color

PARTNERS AT LAW FIRMS BY RACE/ETHNICITY (Excerpt from Table 2)					
Asian	Black or African American	Latinx	Native American or Alaska Native	Native Hawaiian or other Pacific Islander	Multiracial
4.57% Total	2.32% Total	2.97% Total	0.17% Total	0.07% Total	1.30% Total
1.85% Women	0.94% Women	0.97% Women	0.06% Women	0.03% Women	0.53% Women

ASSOCIATES AT LAW FIRMS BY RACE/ETHNICITY (Excerpt from Table 3)					
Asian	Black or African American	Latinx	Native American or Alaska Native	Native Hawaiian or other Pacific Islander	Multiracial
12.12% Total	5.77% Total	6.55% Total	0.18% Total	0.08% Total	3.62% Total
7.29% Women	3.45% Women	3.57% Women	0.10% Women	0.04% Women	2.05% Women

DISTRIBUTION OF EQUITY AND NON-EQUITY PARTNERS BY GENDER AND RACE/ETHNICITY (Excerpt from Table 7)	
<b>Equity Partners</b>	<b>10,067</b>
% Men	77.4%
% Women	22.6%
% People of Color	9.0%
<b>Non-Equity Partners</b>	<b>7,218</b>
% Men	67.3%
% Women	32.7%
% People of Color	13.2%

LAWYERS WITH DISABILITIES AT LAW FIRMS 996 LAWYERS (Excerpt from Table 15)					
Partners		Associates		Other Lawyers	
330	1.08%	492	1.63%	174	1.79%

LGBTQ LAWYERS AT LAW FIRMS 4,006 LAWYERS RANGING FROM FIRMS OF LESS THAN 100 LAWYERS TO 701+ LAWYERS (Excerpt from Table 16)					
Partners		Associates		Other Lawyers	
999	2.46%	2,549	6.14%	458	3.27%

LAWYERS WHO ARE MILITARY VETERANS 1,615 LAWYERS RANGING FROM FIRMS OF LESS THAN 250 LAWYERS TO 701+ LAWYERS (Excerpt from Table 18)					
Partners		Associates		Other Lawyers	
706	1.97%	551	1.52%	358	2.95%

Promises of career advancement and growth are simply not enough. Diverse attorneys require examples, solid proof, and transparency of the following:

1. Advancement is an actual possibility for the diverse attorney.
2. Advancement is advantageous for the diverse attorney.
3. Mechanisms are either in place or being developed to support the advancement of the diverse attorney.
4. A clear plan is in place that provides direction and guidance to the diverse attorney.
5. Acknowledgement that the experience of the diverse attorney may vary from other predecessors.
6. Provide access to resources, including other leaders, who can provide the necessary support to assist with attaining success.
7. Ensuring the diverse attorney feels appreciated, respected, valued, and worthy of opportunities for advancement. Celebrate and recognize their accomplishments.
8. Ensuring the diverse attorney knows the expectations of the organization and what the organization values.
9. Ensuring the diverse attorney does not feel that they have been left alone to figure out how to advance within their organization.
10. Provide opportunities for ongoing personal and professional development.

**What Can We Do to Retain Diverse Attorneys?**

Companies can capitalize on the diversity they already have by including more diverse employees in business decisions at all levels (<https://www.forbes.com/sites/eriklarson/2017/09/21/new-research-diversity-inclusion-better-decision-making-at-work/?sh=30e51a34cbfa>).

Law firms and corporations must recognize that the experience of the diverse attorney can significantly differ from those of their counterparts. There are initiatives that can be implemented within law firms and corporate settings to improve the retention of diverse attorneys. These initiatives are not a one-size-fits-all approach, nor are they an exhaustive list. However, these recommended strat-



egies do provide a good framework for any organization seeking to enhance their DEIB efforts.

**DOs:**

1. Hire a DEIB practitioner or enlist the services of a consultant.
2. Form a DEIB Committee that meets regularly, has specific goals that are consistently measured and revisited, with the Chairperson or select committee members having accountability to your organization's leaders.
3. Have conversations with all employees and note any special concerns or situations shared by diverse attorneys.
4. Consider administering anonymous surveys if conversations pose challenges.
5. Be mindful of the impact that current events may have on diverse attorneys.
6. Be supportive of efforts and interests such as membership in organizations, legal or non-legal.
7. Make sure a program is in place that provides and supports mentorship, which leads to allyship and sponsorship, which will require routine check-ins and feedback. Revisit the program to determine whether any modifications may be needed.
8. Develop a DEIB strategy and goals that are in alignment with your organization, communicate the strategies and goals, and demonstrate commitment by following-through on what has been stated. Accountability and action are key.
9. Invest in any other additional efforts that may benefit your organization, in-

cluding organization-wide discussions, informal meetings, sharing of materials including books, reports, and/or developments.

10. Ensure that any organizational messages and statements pertaining to DEIB are first conveyed within your organization before broadcasting on your organization's website and/or social media outlets.

**DON'Ts:**

1. Do not avoid discussions that address any reports, current events, and/or news items that may adversely affect your diverse attorneys. They will need empathy rather than appearing as if it is just another day at the office.
2. Do not be fearful of commenting on any reports or resources that are circulated that address or may impact DEIB issues. Avoidance is not a strategy.
3. Do not presume that colleagues do not talk or share otherwise sensitive information.
4. Do not solely charge diverse attorneys with the responsibility of addressing all things DEIB. Collaboration is key.
5. Do not avoid renewing commitments to DEIB as an organizational core value.
6. Do not avoid investing in DEIB. Just like any other necessary business resource, DEIB is an item that requires investment and should have a budget associated with its efforts.
7. Do not assume that everyone is on board with your efforts. DEIB efforts often encounter resistance, and sometimes from high-level leaders.

8. Do not discredit the ideas of those non-diverse attorneys or non-diverse members of your law firm or corporation. DEIB is about inclusivity, not exclusivity.
9. Do not be afraid to dispose of any policies or traditions that no longer serve your organization. Recognize that change can be hard, but not changing can be detrimental to the success of your organization.
10. Do not be afraid to measure data or performance. What gets measured matters. Although change can be hard, and we are often resistant to change, you will not be able to change anything you are not aware of or do not understand. DEIB requires constant evaluation, so be mindful that your organization gives it the attention it deserves.

**Conclusion**

Retaining diverse attorneys will require intentional and targeted efforts to ensure these attorneys are equipped with access to resources needed to foster their success within their respective law firm or corporate setting. Also, these attorneys must feel a sense of belonging if there can be any expectation to retain them for a long-term commitment. This will require a culture of empathy, support, and trust on a reciprocal basis. Engagement and involvement lead to collaborative efforts that will foster loyalty, teamwork, and efforts that result in the diverse attorney not only being successful, but also being an invaluable component to an organization's success.



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