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Strategies for leveraging diversity and inclusion to develop meaningful law firm relationships

Diversity and Inclusion

Law Department Management





Without question, client demand has sparked an increased focus on diversity and inclusion (D&I) at law firms. That focus is beginning to have a positive impact on the law firm talent pool. According to the 2018 Vault/MCCA Law Firm Diversity Survey, diverse attorneys now account for 17% of lawyers at firms, nearly a percentage point higher than 2017, and lawyers of color now make up 25% of law firm associates and 13% of counsel. In addition, minority lawyer representation at the firm management and executive committee levels has shown steady increases in the last two years, increasing to 9% in 2017.

However, the Vault/MCCA Survey also indicates that much work remains to be done if law firms intend to retain diverse talent for the long-term. Minority lawyers still represent a disproportionate segment of lawyers who leave law firms, and the 2017 diverse attorney attrition rate was the highest in the past 11 years. While minority women represented 13% of associate departures in 2010, that number rose to more than 15% in 2017. Although Asian Americans represent the single largest racial minority group at law firms, they are the least likely to be partners at their firms. Hiring for African-American lawyers still remains below pre-recession levels, and, in 2017, Hispanic/Latinx attorneys represented only 3.5% of the lawyers promoted to partner, lower than in the previous two years.

Given this tension between positive trends in hiring and promotion and variable success with retention, most law firms are struggling with the best way to discuss their commitment to D&I with clients. **While a robust, visible D&I program shows clients that the firm is committed to the**

cause, firms also want to leverage their commitment to help establish a common culture with clients that can help strengthen and deepen their relationships.

How and when to begin that discussion is difficult to determine. However, it becomes easier when a client with a well-established D&I commitment takes the first step. Described below are practical strategies for law departments to move beyond Diversity 101 with their law firms and to leverage their company's commitment to have more meaningful discussions with outside counsel about the advancement of women and diverse talent.

1. Be willing to discuss both diversity successes and challenges openly with your law firm partners

Law firms want their clients to believe that they have it all figured out when it comes to diversity and inclusion. We don't. (See the numbers above.) However, there are often real barriers between law firms and their clients when discussing needle-moving initiatives because firms often feel that providing too much information about D&I gaps may jeopardize the relationship. Conversely, law departments that are struggling with their own recruitment and retention issues question whether they can openly discuss their concerns — and potential solutions — with outside counsel while still demanding diverse law firm teams. These barriers prevent deeper and more transparent relationships between law firms and their clients not just on D&I issues, but overall. When law firms and legal departments can move beyond viewing diversity and inclusion as just another item to check off, both can utilize D&I as a means to find common ground and a shared vision.

2. Don't be afraid to bring up diversity and inclusion regularly

Diversity and inclusion is a topic that should resonate throughout all aspects of the firm-client relationship, particularly among an organization's leadership. Legal departments do not hesitate to discuss billing or staffing issues with their law firms when those discussions are necessary and in the best interest of the department. Diversity should be no different. Law departments that keep diversity top of mind throughout the course of the relationship signal to firms that it is truly a core value.

3. Law departments should signal the importance of inclusive relationships

Traditional, exclusionary networks in the legal industry are slowly evaporating, and diverse and women associates are changing the culture of business transactions. Adapting to this new reality is not only socially progressive, it also makes business sense. Law departments can signal the importance of inclusive relationships by ensuring diversity among their internal teams who are interacting with outside counsel, and by reviewing how law firms respond to those teams. Are the department's women, diverse, and junior lawyers provided the same deference by your outside counsel as male, non-diverse, or senior lawyers? Are they part of your internal decision-making team when it comes to firm selection, and is that transparent to the law firm? If women and diverse outside counsel are in the room, but are not talking and are not visible on client matters, has the firm been asked for an explanation? **The best way to show a true commitment to D&I is to establish relationships with various members of your outside counsel team, including diverse and women attorneys who are looking to make an impact in their own right.** Law departments that are committed to diverse outside teams should make sure that they are willing to listen and give attorneys, particularly attorneys from diverse backgrounds, a voice whenever there is an opportunity

to do so.

4. Share literature and information about your company's diversity goals and initiatives

Do not be shy about sharing information about the company's D&I best practices with outside counsel or asking for this information from your law firm partners. If the company is consistently recognized as a leader in the field, lean in to conversations with your outside counsel about how to replicate your successes. Law firms are constantly testing and implementing new D&I strategies, and your outside counsel should feel comfortable asking for and receiving advice and ideas regarding successful strategies.

5. Make sure that diversity surveys are being utilized

Client diversity surveys are a great way to evaluate how a firm is progressing when it comes to diversity, if they are used appropriately. D&I programs work best when both firm leaders and clients hold law firm partners accountable for D&I outcomes, rather than just numbers. D&I surveys should be analyzed by both the firm and the client for trends. Following up your survey with questions signals that your company takes the responses seriously, and that the expectation is always year-over-year improvement. When there are gaps, law departments should feel free to raise questions with their relationship partners and with the firm's D&I leadership to find strategies to address issues.

6. Look beyond surveys for insight into the firm's commitment

While there has been progress around standardizing client surveys thanks to the ABA Model Diversity Survey, a diversity survey alone does not always tell the full story regarding a firm's progress and commitment to the advancement and retention of women and diverse attorneys. Having conversations with your outside counsel contacts about the firm's efforts can yield helpful insight that can help the law department look beyond the numbers. Panel reviews and formal pitches are great opportunities for law departments to find out not only the numbers, but also which affinity organizations the firm supports, the partner advancement rates for minority and women attorneys, and whether the firm is working to create a more inclusive environment through implicit bias and other training.

7. Establish relationships with law firm affinity groups or employee resource groups

Affinity groups, sometimes referred to as employee resource groups, are networks within a firm built around a common identity or experience. In the legal industry, affinity groups often engage in programs for professional development and pro bono work. Affinity groups can be a great relationship-strengthening resource. Pro bono initiatives, particularly those that focus on inclusion and representation, are great ways to build trust in a client relationship. Law firms and legal departments can leverage existing networks to support charity and diversity initiatives, helping to solidify and deepen client relationships. Examples include partnering to sponsor development programs for minority or women employees or charity work for underserved communities.

8. Encourage your outside counsel to sign onto advancement

initiatives that help promote diverse and women attorneys at law firms

If your primary outside counsel is a large law firm, ask if the firm is a signatory to the Mansfield Rule, or if it participates in the Leadership Council for Legal Diversity (LCLD). The Mansfield Rule is the law industry equivalent of the Rooney Rule in the NFL, which has been instrumental in pushing for diversity in hiring head coaches and general managers. The Mansfield Rule applies the same concepts to the hiring and advancement of women and diverse attorneys at law firms. LCLD is an organization of chief legal officers and law firms that is committed to providing leadership development opportunities for diverse talent. These are just two initiatives that signal a firm's commitment to D&I, and the firm's engagement often begins with a client inquiry. And since both of these programs provide for direct interaction between law departments and outside counsel, they are also a great opportunity for corporate counsel to meet and have meaningful, informal conversations with outside counsel about the organization's diversity strategy and philosophy.

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